

Land Development Code
of the
Town of West Sparta, New York

January 2012

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ARTICLE I. GENERAL PROVISIONS

Section 101 – TITLE

The title of this Code is the “Land Development Code of the Town of West Sparta, New York.” The Code shall include this text and the official zoning map. The fee schedule shall be adopted by the Town Board and be available for Public inspection at the Town Clerk’s office.

Section 102 – PURPOSE AND INTENTS

The objectives of this Land Development Code are:

- A. To protect the natural environment of the Town.
- B. To provide for the orderly growth in agricultural, residential, commercial, and industrial use of land, consistent with the economic and social needs of the community, with the Town of West Sparta Comprehensive Plan, and with any land development policies adopted by the Town.
- C. To promote the health, safety and general welfare of the Town consistent with the objectives of New York State’s Town Law Section 263.

Section 103 – CONFLICT WITH OTHER LAWS

Whenever the requirements of this Code are at variance with the requirements of any lawfully adopted rules, regulations, laws, or ordinances, the most restrictive of those imposing the higher standards shall govern.

Section 104 – VALIDITY AND SEVERABILITY

Should any section of or provision of this Code be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this Code as a whole or any part thereof other than that part so decided to be unconstitutional or invalid.

Section 105 – INTERPRETATION

In interpreting, construing and applying the provisions of this Code, they shall be held to be the minimum requirements for the protection of the public safety, convenience, prosperity, and general welfare of the public. It is not intended that this Code shall conflict, abrogate, or annul any other ordinance, local law, rule or regulation of the Town of West Sparta previously adopted or which may hereafter be adopted and not in conflict with these Codes, nor is it intended by the Code to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, never the less, wherever this Code imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger yards, courts or other open spaces than are imposed or required by such existing provisions of law or ordinance, or by such rules, regulations, or permits, or by such easements, covenants, or agreements, the provisions of this Code shall control.

Section 106 – REPEAL OF PRIOR ORDINANCE

All prior zoning ordinances of the Town of West Sparta regulating or restricting buildings, the use of lands, and setbacks are hereby repealed and rescinded.

Section 107 - AMENDMENTS

The regulations, restrictions, uses and boundaries provided in this code and the zoning map may be amended, supplemented, changed, modified or repealed in accordance with the provisions of Sections 264 and 265 of Article 16 of New York State's Town Law and all other laws of the State of New York applicable thereto, and in accordance with the following procedures:

- A. Petition for Zoning Change or Amendment
 1. Whenever any person, firm, or corporation desires that any amendments or changes be made in this Code, including the text and/or map, as to any property in the Town, there shall be presented to the Town Board a petition requesting such change or amendment. The petition shall clearly describe the property or properties proposed for re-zoning and their boundaries, and shall indicate the existing zoning districts and the requested zoning district or districts. The petition shall also show existing highways, municipal boundary lines, state parks and State or County institutions, if such exist, within five hundred (500) feet of proposed zoning change. The petition shall also list the names and addresses of all property owners bordering the proposed change. A filing fee, pursuant to regulations adopted by the Town Board, shall be paid at the time of filing of the petition.
 2. The Town Board shall take action on the petition as is described in Sections 264 and 265 of the New York State Town Law.
- B. Public Hearing Required
 1. No Amendment shall become effective until after a public hearing, at which parties in interest and citizens shall have an opportunity to be heard.
 2. As required by NYS Town Law Section 264, notice of the place and time of such hearing shall be published in a paper of general circulation in the Town of West Sparta at least ten days prior to the hearing.
- C. Notification to Neighboring Towns
 1. If the proposed zoning change affects property within five hundred feet of boundaries of any Town or County, a written notice shall be sent to the Clerk of such Town or County at least ten days prior to the date of the public hearing.
 2. Such Town or County shall have the right to appear and to be heard at such public hearing with respect to any such proposed change or amendment, but shall not have the right of review by a court as herein after provided.
- D. Referral to County Planning Board - When the zoning change or amendment affects property within five hundred feet of a municipal boundary, a State or County highway, or a State or County institution, details of the proposed change or amendment shall be sent to the County Planning Board pursuant to Section 239 of General Municipal Law.

Section 108 – EFFECTIVE DATE

This Code shall take effect immediately after the same shall have been published and posted, as provided for by the Laws of the State of New York.

Section 109 – ENFORCEMENT & PENALTIES FOR OFFENSES

- A. Enforcement - It shall be the duty of the Town Board, or such officials authorized by it, to enforce the provisions of this Code or any determination of the Zoning Board of Appeals or the Planning Board.
- B. Penalties for Offenses – The violation of any provision of this Code is an offense and shall subject the person violating the same to a fine not exceeding two hundred fifty dollars (\$250) or to imprisonment not exceeding fifteen (15) days, or both.
- C. Continued violation – Each week’s continued violation shall be considered a separate and distinct offense.

ARTICLE II. PERMITS AND APPLICATION PROCEDURES

Section 201 – PERMITS REQUIRED

- A. No use of land or structures shall be established, changed, or added, nor Building Permit granted, nor structure erected, nor land developed or subdivided until a Zoning Permit has been approved by the Zoning Enforcement Officer (ZEO), who shall approve such permits in accordance with the regulations in this code.
- B. Application for a Building Permit shall be filed with the Code Enforcement Officer.
- C. Application for a Zoning Permit shall be filed with the Zoning Enforcement Officer, on forms approved by the Town.
- D. When a Building Permit is also required, pursuant to the NYS Uniform Fire Prevention and Building Code, as administered by the Town of West Sparta, the application for a Zoning Permit shall be submitted before or at the same time as the application for a Building Permit.

Section 202 – MATERIALS REQUIRED WITH ALL ZONING PERMIT APPLICATIONS

- A. The materials to be submitted with each application for a zoning permit shall indicate clearly the conditions on the site at the time of the application, the features of the site which are to be incorporated into proposed use or building, and the appearance and function of the proposed use or building. The official Town of West Sparta Zoning Application form filed in completely and accurately shall be used. At a minimum, the application shall be accompanied by the following:
- B. Sketch Map –The sketch map (page 3 of the Zoning Application form, or a separate map provided by the applicant) shall be drawn approximately to scale and shall indicate:
 - 1. The dimensions of the lot.
 - 2. The exact size and location of all existing and proposed buildings on the lot.
 - 3. The existing or proposed location of water and sewage disposal systems.

4. Existing and proposed parking areas and driveway locations.
 5. Natural watercourses, drainage-ways and ponds.
 6. Significant natural or environmental features such as wooded areas, rock outcroppings, and steep slopes (more than 15%).
- C. Location Map (page 3 of the Zoning Application form or a separate map provided by the applicant) showing the position of the property within the Town, the street address, and the nearest cross streets.
 - D. Evidence of property ownership, intent to purchase, or other notification from the landowner authorizing the proposed use.
 - E. Evidence of an approved driveway plan, as permitted by the State Department of Transportation, County Highway Superintendent or Town Highway Superintendent, as appropriate.
 - F. License or Permit: For any use currently licensed or permitted by Federal, State, County or Town Agencies, evidence of a currently valid license or permit.
 - G. Fee: The appropriate non-refundable fee established by the Town Board in its duly adopted fee schedule shall be paid at the time of application and collected by the Zoning Enforcement Officer.

Section 203 – ADDITIONAL MATERIALS REQUIRED WITH (ZONING PERMIT) APPLICATION FOR SPECIAL PERMIT USES

- A. When the Zoning Enforcement Officer, after review of the Zoning Application form, determines that a proposed use is a SPECIAL PERMIT USE, the following information shall be required in addition to that listed in Section 202.
 1. The location and capacity of existing and proposed vehicular access ways and parking.
 2. The location and dimensions of any existing and proposed sidewalks, walkways or other areas established for pedestrian use.
 3. The design and treatment of existing and proposed open areas, buffer areas, and screening devices, including dimensions of all areas devoted to lawns, trees, and other landscaping.
 4. Provisions for water supply, sewage disposal, and storm water drainage.
- B. The official Town of West Sparta Special Permit Use application form shall be used. The applicant shall demonstrate that the proposed SPECIAL PERMIT USE meets the standards as listed in Article VIII of this Code.
- C. The Zoning Enforcement Officer may require the applicant to submit such other data and plans as may be required by the Planning Board to properly take action on the application.

Section 204 – SITE PLAN REVIEW

Site Plan Review by the Planning Board is required for all uses except for one and two family dwellings and farm use. Standards and procedures are specified in Article IX of this Code. The official Town of West Sparta Site Plan review form shall be used.

Section 205 – SUBDIVISION PLAN REVIEW

Subdivision Plan review is required for any proposed division of land including adjustment of boundaries. Standards and procedures are specified in the Town of West Sparta Subdivision Law.

Section 206 – FEES

The Zoning Enforcement Officer shall collect permit and application fees. Fees shall be paid according to the fee schedule adopted by the Town Board and in effect at the time of application. A fee schedule shall be posted at the Town Clerk's office and be available from the Zoning Enforcement Officer.

ARTICLE III. ENFORCEMENT

Section 301 – DESIGNATION OF CODE ENFORCEMENT OFFICER AND ZONING ENFORCEMENT OFFICER

The duty of administering and enforcing this Code is hereby conferred upon the Code Enforcement Officer and the Zoning Enforcement Officer. The CEO and ZEO shall be appointed by the Town Board and receive compensation as the Town Board shall determine.

ARTICLE IV. ZONING BOARD OF APPEALS AND PLANNING BOARD

Section 401 – CREATION AND APPOINTMENT OF ZONING BOARD OF APPEALS

- A. The Zoning Board of (ZBA) is hereby created, pursuant to Section 267 of NYS Town Law.
- B. The Zoning Board of Appeals shall consist of three (3) members appointed by the Town Board. Members shall hold staggered three (3) year terms of office.
- C. The Town Board shall fill a vacancy occurring other than by expiration of term by appointment for the unexpired term.
- D. The Town Board shall appoint the ZBA's chairperson, following a recommendation voted on by the ZBA. In the absence of the chairperson the members of the ZBA may designate a member to serve as acting chairperson.
- E. No member of the Town Board shall be eligible for membership on the Zoning Board of Appeals. Town Planning Board members may be asked to participate in a meeting if needed to make a quorum as long as no conflict of interest occurs.
- F. Members shall attend at least 75% of regular meetings in a calendar year. The Town Board may replace any member who does not attend at least 75% of said meetings.
- G. All members of the ZBA shall take a minimum 4 hours of training per year as required by NYS law. The municipality may require additional training.

Section 402 – MEETING PROCEDURES

- A. All meetings of the ZBA shall be held at the call of the chairperson, or at the request of the majority of the members.
- B. The presence of two (2) members shall constitute a quorum for the conduct of business before the board.
- C. All decisions shall be by majority vote of the membership (two), except in those cases where the County Planning Board has returned a recommendation of disapproval for an action referred to it pursuant to section 239m of General Municipal Law. In such cases a majority plus one (three) shall be required for approval, (see Section 414).
- D. All votes of the Zoning Board of Appeals shall be taken by roll call.
- E. In accordance with General Municipal Law, Section 809, a member of the Zoning Board of Appeals having a conflict of interest shall abstain from any discussion or voting on that matter.
- F. The Zoning Board of Appeals may request and obtain any advice or opinions on the law relating to any matter before the Board from the Town Attorney, or request the Town Attorney to attend its meetings.
- G. The Zoning Board of Appeals may require the Code Enforcement Officer and/or the Zoning Enforcement Officer to attend its meetings to present any facts relating to a matter before the Board.
- H. All meetings of the Zoning Board of Appeals shall be open to the public.
- I. The Zoning Board of Appeals shall keep minutes of all its meetings. The Zoning Board of Appeals shall appoint one of its members to serve as secretary, and one as vice chairperson.
- J. The Zoning Board of Appeals shall make a factual record of all its proceedings including the reading of the case, public hearing, deliberation, voting and decisions of the Board. These factual records shall be taken by means of stenographic and/or tape recorder and shall be accurate but not necessarily verbatim transcription but may be in narrative form. The secretary of the Zoning Board of Appeals shall take the factual record.

Section 403 – RULES AND EXPENSES

- A. The Zoning Board of Appeals may adopt procedural rules or by-laws for its operation, which are not in conflict with this local law.
- B. The Town Board shall provide an appropriation to the ZBA to cover necessary expenses, including those required to maintain a written record of its meetings and to hold public hearings.

Section 404 – GENERAL DUTIES

- A. Interpretation: Upon appeal from a decision by the Zoning Enforcement Officer, or upon request by the Zoning Enforcement Officer, the ZBA shall decide any question involving interpretation of any provision of this code, including zoning map boundaries.

- B. Variances: The ZBA shall hear requests for variances, upon denial of a zoning permit by the Zoning Enforcement Officer, according to the procedures and standards specified in this Article, and in Section 267 of Town Law.

Section 405 – GENERAL PROCEDURES

- A. All appeals and applications made to the Zoning Board of Appeals shall be in writing, on forms approved by the ZBA and available from the Zoning Enforcement Officer.
- B. Every appeal or application shall refer to the specific provision of the code involved.

Section 406 – STANDARDS FOR GRANTING VARIANCES

- A. Whenever carrying out the strict letter of the law would lead to unnecessary hardships, the ZBA has the power to vary or modify the provisions of this Code so that the spirit of the code shall be observed, public safety and welfare secured, and substantial justice done.
- B. A “Use Variance” is one that permits a use of land that is prohibited by the zoning regulations. Thus, a variance that permits a commercial use in a residential district, that permits a multiple dwelling in a district limited to single-family homes, or that permits an industrial use in a district limited to commercial uses, is a use variance.
- C. An “Area Variance” is one that permits a use of land in a manner that is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

(Thus, area variances are distinguished from use variances in that a use variance applies to the use to which a parcel of land or structure thereon is put, and an area variance applies to the land itself.)

- D. Criteria for granting area variances:
The ZBA shall consider the following when deciding on applications for area variances:
 - 1. How substantial the variation is in relation to the requirement.
 - 2. The effect, if the variance is allowed, on available governmental facilities (roads, fire protection, water, sewer, etc.).
 - 3. Whether a substantial change will be produced in the character of the neighborhood or a substantial detriment to adjoining properties will be created.
 - 4. Whether the need for a variance can be avoided through some other method feasible for the applicant to pursue
 - 5. Whether the interests of justice will be served by allowing the variance
- E. Criteria for granting use variances:
The ZBA shall apply the following criteria when deciding on applications for use variances:
 - 1. The land in question cannot yield a reasonable return if used only for a purpose permitted by the zoning.
 - 2. The plight of the owner is due to unique circumstances and not to general conditions in the neighborhood.

3. The use to be authorized by the variance will not alter the essential character of the neighborhood or locality.
4. The use to be authorized by the variance will not be contradictory or detrimental to the spirit or intent of the zoning district or zoning law itself.

Section 407 - PROCEDURES FOR GRANTING A VARIANCE

- A. All applications for variances shall be in writing on forms established by the ZBA. They are available from the Zoning Enforcement Officer.
- B. Every application shall refer to the specific provision of the law involved and establish the details of why the variance should be granted.
- C. Upon receipt of the completed application the ZBA shall:
 1. Schedule a public hearing.
 2. Arrange publication of notice of the public hearing as described in Section 408.
 3. Refer the application to the County Planning Board as required by General Municipal Law Section 239, if required. (See Section 413-314)
 4. Determine whether a Draft Environmental Impact Statement should be required.
- D. Within 30 days of the public hearing, the ZBA shall render a decision. If matter was referred to the County Planning Board, a copy of the ZBA's findings and decision must be sent to the County Planning Board.

Section 408 - NOTICE OF PUBLIC HEARING

The Zoning Board of Appeals shall fix a reasonable time for the hearing of appeals not to exceed 30 days from date of the ZBA's meeting at which the matter was discussed.

The Zoning Board of Appeals shall give notice to the Municipal Clerk of an adjacent municipality when a public hearing is held for a variance on property that is within five hundred (500) feet of the adjacent municipality. Such notice shall be given by mail or electronic transmission to the adjacent municipality at least ten (10) days prior to any such hearing.

Section 409 - CREATION AND APPOINTMENT OF A PLANNING BOARD

The Town Board authorizes the appointment of a five member Planning Board plus two alternate members, as more fully described in Town Law Section 271. Terms of all Planning Board members shall be staggered, as the law requires.

Section 410 - OFFICERS, RULES AND EXPENSES

- A. The Town Board may select a chair of the Planning Board based on recommendations by the Planning Board. On failure to do so, the Planning Board shall elect a chair from its own members.
- B. The Planning Board may adopt rules or bylaws for its operation.

- C. The Town Board shall provide an appropriation to the Planning Board to cover necessary expenses including the means for the Planning Board to maintain a written record of its meetings and public hearings.

Section 411 - FUNCTIONS OF THE PLANNING BOARD

- A. Prepare or change a Comprehensive Land Development Plan (Master Plan) for the Town.
- B. Review and comment on all proposed zoning amendments if requested by the Town Board.
- C. Conduct Site Plan Reviews as authorized by Town Law 274a and prescribed in Article IX of this Code.
- D. Review and recommend approval or disapproval of Special Permit Uses as authorized by this Code.
- E. Review Subdivision Applications as described in the Town of West Sparta Subdivision Law.
- F. Render assistance to the Zoning Board of Appeals, if requested.
- G. Research and report on any matter referred to it by the Town Board.
- H. Make investigations, maps, reports, and recommendations in any matter related to Planning and Development as it seems desirable, providing expenditure of the Board does not exceed appropriations (Town Law Section 275).

Section 412 – PROCEDURES FOR SPECIAL USE PERMITS

- A. The Planning Board is hereby granted authority, pursuant to Sec. 274b, of NYS Town Law, to review and recommend approval of Special Permits for uses listed in this code, subject to criteria specified in this Code.
- B. The Planning Board may also apply conditions to the Special Use Permit, which are necessary to protect the general health, safety and general welfare of the community and to protect the character of the neighborhood from potential impacts of the Special Use Permit use.
- C. Procedures
 - 1. The Zoning Enforcement Officer shall refer the completed Special Use Permit application to the Planning Board within ten (10) days after receiving a completed application.
 - 2. At its next regular or special meeting, the Planning Board shall review the application and designate a public hearing date within a reasonable period of time, not to exceed forty-five (45) days from the date application was made or sixty (60) days in cases when the application must be referred to the County Planning Board in accordance with General Municipal Law, Section 239m.
 - 3. The Town Planning Board shall send a notice of the public hearing to the applicant and publish a notice of the public hearing in the official newspaper, one of general circulation in the Town. The Planning Board shall give notice to the Municipal Clerk of an adjacent municipality when a public hearing is held for a Special Use Permit on property that is within five hundred (500) feet of the adjacent municipality. Such notice shall be given by mail or

electronic transmission to the adjacent municipality at least ten (10) days prior to any such hearing.

4. The notice of the Public Hearing shall be sent and published at least ten (10) calendar days prior to the date of the public hearing as well as sufficient information so as to identify the property involved and the nature of the proposed action.
5. The Planning Board shall make a factual record of all its proceedings involving the granting of a Special Use permit. The decision of the Planning Board shall contain the reasons for its decision.
6. The Planning Board shall render its decision, approving, approving with conditions, or denying, within forty-five (45) days after the hearing, unless an extension is mutually agreed upon.

D. Findings

1. The Planning Board may approve a special use permit for uses permitted by special use permit in the zoning district or districts involved provided that all requirements and conditions set forth in Article VII and elsewhere in this Code are in compliance.
2. The Planning Board shall make written findings for each special use permit decision. Findings shall state the reasoning behind, the basis for, and the evidence relied upon to reach the decision. Compliance with the requirements of Article VII shall be substantiated.

Section 413 - REQUIRED REFERRALS TO THE COUNTY PLANNING BOARD

New York State General Municipal Law sections 239 l, m, and n require that any of the following local zoning actions must be referred to the County Planning Board prior to action by the Local Board. Any proposal for a special permit, variance, site plan approval, change in the zoning law text or map (rezoning, amending the zoning law) or subdivision which would affect real property lying within a distance of 500 feet from the boundary of:

- any county
- any town
- any village
- any existing or proposed county or state park
- any right-of-way of any county or state road or parkway
- any stream or canal owned by the county
- any existing or proposed county or state owned land on which a public building or institution is situated
- Land within an Agricultural District established pursuant to Article 25AA of NYS Agriculture & Markets Law shall be referred to the County Planning Board who shall have 30 days from date of County receipt to take action on the matter. By mutual agreement of the county and the municipality such 30 day period may be extended in special cases.

Section 414 - EFFECT OF COUNTY PLANNING BOARD REVIEW

- A. If the county approves a referral, then the local planning board's decision is governed by a majority vote.

- B. If the county disapproves or approves subject to stated conditions or modifications, the local planning board may override the county opinion only by a majority plus one vote.

Section 415 - REPORT ON FINAL LOCAL ACTION

The Town Planning Board must send a copy of its final decision and reasons for such decision on a County referral case to the County Planning Board within 7 days after the local decision is reached.

ARTICLE V. ZONING DISTRICTS

Section 501 - CREATION OF ZONING DISTRICTS

For the purpose of promoting the public health, safety, and general welfare of the Town of West Sparta, the Town is hereby divided into the following zoning districts:

- A/R Agricultural/Residential
- M Mixed Use – Hamlet
- F Flood Hazard

Section 502 - ZONING MAP

Said zoning districts are bounded as shown on the map entitled “Zoning Map of the Town of West Sparta,” adopted by the Town Board and including all subsequent amendments duly adopted by the Town Board. The Zoning Map shall be on file in the Office of the Town Clerk. The Zoning Map, with all explanatory materials, is hereby made a part of this code.

Section 503 - INTERPRETATION OF DISTRICT BOUNDARIES

- A. Unless otherwise indicated on the Zoning Map, the district boundary lines are intended generally to follow or run parallel to the center lines of streets, the center lines of railroad rights of way, existing lot lines, the mean water level of streams and other waterways, all as shown on the Zoning Map.
- B. In case of uncertainty as to the true location of a zoning district boundary line in a particular instance, the Zoning Enforcement Officer shall request the Zoning Board of Appeals to render a determination.

ARTICLE VI. ZONING DISTRICT REGULATIONS

Section 601 - A/R AGRICULTURAL/RESIDENTIAL

- A. Purpose
The A/R Zoning District is intended to promote a balance of agriculture, open space, and low density residential development, along with other compatible uses as indicated in the Town of West Sparta Comprehensive Plan.

B. Permitted Uses

The following uses shall be permitted in the A/R District, pursuant to the regulations and standards contained in this Code:

1. Agriculture and Agribusiness including crop and livestock farms, equestrian facilities, vineyards, and orchards.
2. One-family and two-family dwellings, seasonal homes, one-family double wide mobile homes (doublewides), modular homes, garages and accessory buildings. They must conform to New York State Uniform Fire and Building Code Standards. Each entrance must have professionally designed and built stairs and footing in accordance with New York State Fire and Building Code Standards. Double wide mobile homes and modular homes must be installed on permanent foundation walls.
3. Recreation areas, including but not limited to parks, playgrounds, athletic fields, golf courses, riding stables and riding arenas. Racetracks for motorized vehicles are not included.
4. Seasonal Farm Stands and Farm Markets:
 - a. Produce, including fresh fruits, vegetables, flowers, herbs, Christmas trees, honey, jams, jellies, and maple products may be sold or offered for sale as an accessory use from a lot where a substantial portion of such produce is grown on the premises.
 - b. Adequate off street parking must be provided.
 - c. Farm Stands (temporary structures) must be removed at the end of the season or secured in such a way as to prevent their becoming a safety hazard.
 - d. Farm Markets (permanent structures) are subject to a Site Plan review by the Planning Board.
5. Home occupations, including professional offices within a home:

Home occupations (home based businesses) shall be permitted for activities such as hairdressing, laundering, television and radio repair, computer repair, bicycle sales and repair, locksmith, taxidermy, gun sales and repair, tack sales and repair, licensed in-home day care (child care), and other uses, which the Board of Appeals determines to be similar in scale and nature. Home offices are considered to be a home occupation and shall be permitted for professions such as a doctor, dentist, veterinarian, lawyer, architect, contractor, accountant, broker, surveyor, or other profession which the Board of Appeals may determine to be eligible for establishing an office in conjunction with the home. The Zoning Officer shall request an interpretation from the Board of Appeals before approving a Zoning Permit for any home occupation not listed herein.

The following requirements shall apply to all home occupations:

- a. No more than two people other than members of the immediate family occupying such dwelling shall be employed as part of the home occupation.

- b. A home occupation must be conducted within a dwelling that is the bona fide residence of the principal practitioner or in an accessory building thereto which is normally associated with a residential use.
 - c. No more than twenty-five (25) percent of the gross floor area of such residence shall be used for the conduct of a home occupation. No more than forty (40) percent of the floor area of an accessory structure shall be used for a home occupation (except garages).
 - d. In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or the emission of sounds, noises, or vibrations.
 - e. No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home associated with a hobby or avocation not conducted for gain or profit or machinery or equipment which is essential in the conduct of the home occupation.
 - f. No outdoor display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.
 - g. One (1) sign shall be permitted not to exceed 4 square feet. There shall be no use of utilities or community facilities beyond that normal to the use of the property for residential purposes.
 - h. One (1) commercial type vehicle may be used in connection with the home occupation and be parked on the property.
 - i. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.
 - j. A home occupation shall NOT be interpreted to include the following: commercial stables and kennels, restaurants, musical and dancing instruction to groups exceeding four (4) pupils, convalescent homes, mortuary establishments, garages or shops for the repair of motor vehicles and other trades and businesses of a similar nature.
6. Cemeteries – human or animal.
 7. Plant Nurseries and Tree farms - Retail and wholesale businesses for the propagation and sale of trees and plants, including accessory uses such as cold storage buildings and sales and/or shipping offices.
- C. Special Permit Uses:
- The following uses shall be permitted in the A/R district, provided the standards specified in Article VIII are met in addition to other requirements of this Code. A Special Use Permit shall be obtained from the Planning Board, pursuant to procedures specified in Section 412. A Special Use permit shall be revoked by the ZEO if any violations of this code are made.
1. Airports (see Sec. 801)
 2. “Bed & Breakfast” or tourist home (see Sec. 802)
 3. Campgrounds (see Sec. 803)

4. Clubs, lodges, or fraternal organizations (see Sec. 804)
 5. Commercial Day Care centers (see Sec. 805)
 6. Excavation & mining operations (see Sec. 807)
 7. Farm Labor Camps (see Sec. 808)
 8. Gas Station (may include convenience store) (see Sec. 809)
 9. Hospital, Adult Care facilities, nursing home or health related facility (see Sec. 810)
 10. Hotels and Motels (see Sec. 811)
 11. Kennels and animal hospitals (see Sec. 812)
 12. Individual Mobile Home (singlewide) Section 813
 13. Mobile Home Park (see Sec. 814)
 14. Motor Vehicle /Agricultural Equipment repair shop (see Sec. 815)
 15. Public and Semi-public buildings and grounds (see Sec. 817)
 16. Public Utilities and other essential services (see Sec. 818)
 17. Storage, using existing farm buildings (see Sec. 819)
 18. Auto Salvage/Dismantler Yard/Junkyards – (see Section 709)
 19. Adult Use Establishments – (see Town Of West Sparta Local Law)
 20. Timber logging.
- D. Area Specifications:
1. Minimum lot size: 3 acres
 2. Minimum lot width at front building line: 150 ft.
 3. Minimum setbacks:
 - Front: 75 ft. (from center of road)
 - Side: 15 ft. (from lot line)
 - Rear: 20 ft. (from lot line)
 4. A larger minimum lot size shall be required when the County Health Department determines, after reviewing soils and percolation ('perc') test data, that a larger lot size is necessary for adequate operation of an on-site sewage disposal system.
 5. Smaller lot sizes and setbacks may be permitted as part of a cluster sub-division, pursuant to Sec. 281 of NYS Town Law. In no case shall the overall density of a clustered sub-division exceed that which would be permitted with a conventional sub-division design.
 6. The minimum frontage along a public road shall be 50 feet. Flag-shaped lots are permitted.
 7. If a dwelling is located more than 200 feet from a public road, the driveway must be constructed according to the criteria in Section 710 or 711 of this Code as appropriate.

Maximum building height/structure height is thirty five (35) feet, not including silos, church steeples, chimneys, private wind machines, and private television and radio antennas or as otherwise specified in these regulations and the Local Laws of the Town of West Sparta.

Section 602 – M - Mixed Use

A. Purpose

The Mixed Use district is intended to encourage development within the designated zone of a variety of appropriate uses that meet the community housing needs and commercial services needs. The mix of high-density residential and low intensity commercial is designed to meet the community's need for affordable housing and provide low volume sales and service establishments necessary to the residents of the town. The purpose of the Mixed Use designation is to preserve the historic hamlet neighborhoods in West Sparta by encouraging a mix of business and medium density residential development.

B. Permitted Uses:

1. Single family homes and accessory buildings, including 'Doublewide' manufactured homes and modular homes. Double Wide manufactured homes and modular homes must be installed on a permanent foundation and must conform to New York State Uniform Fire and Building Code Standards. Each entrance must have professionally designed and built stairs and footing in accordance with New York State Fire and Building Code Standards.
2. Two family homes and accessory buildings.
3. Multifamily homes (apartment buildings, townhouses, condominiums) and accessory buildings.
4. Individual mobile homes and accessory buildings. Singlewide mobile homes must carry a 1990 or later HUD data plate and conform to New York State Mobile Home Standards. The base of the mobile home must be enclosed within sixty (60) days with wood, concrete block, metal, rigid plastic, or other factory approved material attached in a permanent, workmanlike manner. All New York State and Livingston County sanitary conditions must be observed. Each entrance must have a professionally designed and built set of stairs and footing.
5. Mobile home parks (refer to Section 814).
6. The following uses are permitted provided that such uses do not exceed five thousand (5000) square feet in one building and are conducted within a completely enclosed building. Permitted uses are subject to Site Plan approval by the Town Planning Board.
 - a. Banking facilities, professional offices, and administrative offices.
 - b. Medical buildings consisting of offices or clinics for physicians, osteopaths, dentists, chiropractors, chiropodists, podiatrists and optometrists.
 - c. Meeting rooms for private clubs, lodges or fraternal organizations.
 - d. Fire station and/or ambulance service headquarters.
7. The following uses are permitted when conducted within a completely enclosed building. Such uses are not to exceed two thousand five hundred (2500) square feet in total area, and are subject to Site Plan review by the Town Planning Board:
 - a. Grocery store
 - b. Apparel store

- c. Drugstore
- d. Antique or consignment store
- e. Bookstore
- f. Laundry (self serve)
- g. Beauty parlor, barbershop
- h. Apparel repair and alterations
- i. Bakery
- j. Florist shop
- k. Commercial schools
- l. Artist/craft studio
- m. Restaurants, coffee shops, or similar places principally serving food for inside consumption, provided that occupancy does not exceed ninety (90) persons. An outdoor eating area, consisting of no more than 10 tables and 40 seats total, may be allowed provided that there is no outdoor entertainment and all structures and uses are contained within the setbacks.
- n. Sporting goods store
- o. Bicycle sales and repair
- p. Farm markets/roadside stands. Outdoor display areas will be permitted provided that all displays are contained within the setbacks.
- q. Home occupations, including professional offices within a home
Home occupations (home based businesses) shall be permitted for activities such as hairdressing, laundering, television and radio repair, computer repair, bicycle sales and repair, locksmith, taxidermy, gun sales and repair, tack sales and repair, licensed day care (child care), and other uses, which the Board of Appeals determines to be similar in scale and nature. Home offices are considered to be a home occupation and shall be permitted for professions such as a doctor, dentist, veterinarian, lawyer, architect, contractor, accountant, broker, surveyor, or other profession which the Board of Appeals may determine to be eligible for establishing an office in conjunction with the home. The Zoning Officer shall request an interpretation from the Board of Appeals before approving a Zoning Permit for any home occupation not listed above.

The following requirements shall apply to all home occupations (home based businesses):

- i. No more than two people other than members of the immediate family occupying such dwelling shall be employed as part of the home occupation.
- ii. A home occupation must be conducted within a dwelling which is the bona fide residence of the principal practitioner or in an accessory building thereto which is normally associated with a residential use.
- iii. No more than twenty-five (25) percent of the gross floor area of such residence shall be used for the conduct of a home

occupation. No more than forty (40) percent of the floor area of an accessory structure shall be used for a home occupation (except garages).

- iv. In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or the emission of sounds, noises, or vibrations.
- v. No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home associated with a hobby or avocation not conducted for gain or profit or machinery or equipment which is essential in the conduct of the home occupation.
- vi. No outdoor display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.
- vii. One (1) sign shall be permitted not to exceed 4 square feet. There shall be no use of utilities or community facilities beyond that normal to the use of the property for residential purposes.
- viii. One (1) commercial type vehicle may be used in connection with the home occupation and be parked on the property.
- ix. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.
- x. A home occupation shall NOT be interpreted to include the following: commercial stables and kennels, restaurants, musical and dancing instruction to groups exceeding four (4) pupils, convalescent homes, mortuary establishments, garages or shops for the repair of motor vehicles and other trades and businesses of a similar nature.

C. Special Permit Uses

The following uses are permitted upon obtaining a Special Use Permit from the Town as provided for in Article II Section 203 of this Code.

1. Veterinary office / animal hospital provided that there is no outside boarding of animals (Section 812).
2. Public and semi public buildings and grounds (section 817).
3. Commercial Day Care centers (section 805).
4. Adult care facilities, nursing homes, or other integrated long term care facilities (section 810).
5. Adult Use Establishments – (see Town of West Sparta Local Law).
6. Utilities (section 818).
7. Motor vehicle repair shops (Section 815).
8. Gas station (may include convenience store) (Section 809).
9. Restaurants with Drive Up Windows (Section 806).

D. Area Specifications:

Minimum lot size: 2 acres in areas where no public sewer/public water is available
1 acre in areas where public sewer/public water is available

Minimum road frontage: 100 feet

Minimum set back: Front: 60 feet (from centerline of road)
Side: 15 feet (from lot line)
Rear: 20 feet (from lot line)

Maximum building height/structure height is thirty five (35) feet, not including church steeples, wind machines, chimneys and private television and radio antennas or as otherwise specified in these regulations and the Local Laws of the Town of West Sparta.

If a dwelling is located further than 200 ft. from the road, the driveway must meet the criteria in Section 710 or 711 of this Code as appropriate.

Section 603 – F - FLOOD HAZARD OVERLAY DISTRICT

- A. The boundaries of the Flood Hazard District shall coincide with the Town of West Sparta FEMA Flood Plains Map, Zone A and AE. The regulations of this district shall be as stated in the Town of West Sparta Flood Damage Prevention Law.
- B. Purpose – The purpose of the Flood Hazard District (F) is to protect human life and health, minimize property damage, minimize surface and groundwater pollution, and to provide public awareness of the potential for flooding.
- C. Applicability – Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Code does not imply that areas outside district boundaries or land uses permitted within such districts will be free from flooding or flood damages.
- D. Permitted Uses – Permitted uses shall be specified by the underlying zoning district.
- E. Special Provisions – Any development or improvement within a Flood Hazard (F) district shall meet the requirements stated in the Town of West Sparta Flood Damage Prevention Law.

ARTICLE VII. REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS

Section 701 – SIGNS

- A. Signs shall be permitted only according to standards listed below unless otherwise stated in this Code.
- B. General Standards
 - 1. No sign shall consist of lights that flash or move or appear to move.
 - 2. No sign shall be higher than the principal building to which it is an accessory.
 - 3. No general advertising signs unrelated to the permitted use of the premises are allowed.
 - 4. No sign shall project into a public right-of-way.

5. No sign shall be erected on a public utility pole or traffic control structure.
6. All existing signs at the time of enactment of this Code shall be allowed to remain as long as they are properly maintained and their use remains current.
7. Temporary unlighted signs erected by and for individuals, local businesses, or by and for non-profit organizations such as churches, American Legion, Boy Scouts, political organizations, etc. advertising suppers, banquets, benefits, fund raising sales, yard sales, etc. may be erected for a forty (40) day period without permit in any district, provided that the sign will not constitute a traffic or safety hazard and shall be removed within five days after the advertised event. Signs attached to utility poles or traffic control signs are not permitted .
8. One site sign is permitted, not to exceed twenty (20) square feet per side (except as otherwise specified in this code).
9. Lighting for signs shall meet the criteria for Lighting (Section 712).

Section 702 – PARKING

This section is designed to reduce problems including safety hazards caused by inadequate or poorly designed parking facilities:

- A. All uses shall provide adequate off-street parking for all vehicles parked during typical peak use periods. Parking should be designed to eliminate the need to back out or to park on the shoulder of public roads. Parking along the public road is strongly discouraged during the day during the winter snow and ice season, and forbidden at night during the winter snow and ice season.
- B. Violation is constituted by an observed overload or parking onto off-site areas neighboring property or road right-of-ways more than three times in one month.
- C. A parking space shall be not less than 10' x20' exclusive of access ways and driveways. Single-family residences need not exclude driveway area.
- D. Off street parking areas for non-residential uses shall provide access lanes to parking spaces. Parking areas for fifty (50) or more vehicles shall delineate fire lanes that include 'no parking' markers. Access drives of business or industrial uses which pass through a residential zoning district shall not be permitted.
- E. Minimum standards supplementary to the basic standard cited above as follows:
 1. One parking space for every three seats in a public meeting place.
 2. One parking space for each employee at places of employment and one parking space per two hundred fifty (250) square feet of gross floor area in a commercial establishment unless otherwise specified herein.
 3. One parking space for every two hundred (200) square feet of gross floor area in a commercial establishment unless otherwise specified herein.
 4. One parking space for every one hundred (100) feet of gross floor area in supermarkets and self-service food stores.

Section 703 – FENCES

- A. No solid fence, hedge or shrubbery shall cause obstruction to vision at street intersections or driveways.

- B. Fences shall be erected so that the 'good' side of the fence faces the neighboring property or public highway right of way unless the fence is for the purpose of containing livestock.
- C. No solid fences over eight feet (8') high shall be permitted.

Section 704 – CAMPING TRAILERS

- A. No camping trailer shall be used as a permanent residence or part of a permanent residence
- B. Camping trailers ('campers') shall not be occupied on an overnight basis except at an approved camping ground, or with the consent of the land owner., for a period not to exceed fourteen (14) consecutive days per month on private land. Aall health standards shall be met.
- C. Camping trailers must be maintained so as to be able to be removed from said property; wheels and hitch must be kept intact and no permanent structures may be attached to the body of the camping trailer. .

Section 705 – STATE ENVIRONMENTAL QUALITY REVIEW

- A. The State Environmental Quality Review Act requires that local government examine the environmental impact of all actions they permit, fund, or construct. Article 8 and Part 617 of Title 6 of the New York Code of Rules and Regulations are hereby adopted by reference.
- B. All actions (NYCRR Part 617) shall require the submission and review of an environmental assessment form.
- C. For zoning action reviewed by the Town, the following bodies shall be lead agency unless otherwise designated by the Town Board:
 - Zoning Text Amendments - Town Board
 - Zoning District Amendment - Town Board
 - Special Permits - Planning Board
 - Subdivisions - Planning Board
 - Site Plan - Planning Board
 - Variances - Zoning Board of Appeals
- D. If the opinion of the local lead agency, after review of the Environmental Assessment Form, there appears the potential for a significant environmental impact, the lead agency shall cause the applicant to prepare a Draft Environmental Impact Statement. Review, notice and action on the EIS shall be conducted according to part 617 of 8 NYCRR.

Section 706 – CORNER LOTS

On corner lots, the sides facing both streets shall be considered front yards. Of the other sides, one shall be considered a rear yard and the other a side yard at the owner's option.

Section 707 – NON-CONFORMING USES, LOTS AND STRUCTURES

Lots, structures, uses of land and structures and characteristics of use which lawfully existed at the time of the enactment of these regulations and which would be prohibited or restricted under the terms of these regulations may be continued (“Grand fathered”) subject to the following provisions:

- A. Intent – It is the intent of these regulations to permit non-conforming uses to continue until they are removed, but not to encourage their survival.
- B. Enlargement – No non-conforming structures or uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption of these regulations.
- C. Unsafe Structures – Any structure or portion thereof declared unsafe by a proper authority must be restored to a safe condition. Refer the Town of West Sparta Local Law “Abandoned Buildings and Unsafe Structures.”
- D. Alterations
 - 1. A structure housing a non-conforming use may not be reconstructed or structurally altered to an extent exceeding in aggregate cost 50 percent of the full value of said structure, unless the structure shall be changed to a conforming use.
 - 2. Non-conforming mobile homes may only be replaced with mobile homes that conform to current regulations for the zone in which they are to be placed.
- E. Restoration – No non-conforming structure damaged by fire or other causes to the extent of more than 50 percent of its full value shall be repaired or rebuilt except in conformity with the requirements of these regulations.
- F. Discontinuance – Whenever a non-conforming use has been discontinued for a period of one (1) year, use shall not thereafter be re-established and any future use shall be in conformity with the provisions of these regulations.
- G. Changes – Once changed to a conforming use, no structure or land so changed shall be permitted to revert to a non-conforming use.
- H. Displacement – No non-conforming use shall be extended to displace a conforming use.
- I. Moving – Should any structure be moved for any reason for any distance, it shall thereafter conform to the requirements for the district in which it is located after it is moved.
- J. Existing undersized Lots of Record
 - 1. Any recorded lot held in a single and separate ownership prior to the adoption of these regulations and whose area and/or width and/or depth are less than minimum requirements specified herein for the district, may be considered as complying with these regulations and no variance therefore shall be required, provided that:
 - a. Such lot does not adjoin any other lot or lots held by the same owner, the aggregate area of which lots is equal to or greater than the minimum lot area required by the district.
 - b. The minimum yard requirements set by these regulations are met.
 - 2. In any district where residences are permitted, such undersized non-conforming lots may be used for not more than a single-family dwelling.

3. A lot of non-conforming size may be subdivided if each and every subdivision of such lot is purchased by the owner or owners of the adjoining properties to increase the size of said owner's property.

Section 708 – ALTERNATE ENERGY SYSTEMS

- A. All private residential wind energy towers shall be located so as to allow an open zone around the tower on the owner's property of a radius (fall zone) at least equal to the height of the tower plus the length of the blades plus 10% to prevent the tower, should it fall, from impacting the neighboring property or public highway.
- B. All appurtenant electrical equipment shall cause no undue interference or noise.
- C. Rotating blades shall clear the ground at their lowest point by at least ten (10) feet.
- D. Commercial and industrial wind towers / wind turbines shall meet the requirements of the Town of West Sparta Local law.
- E. Solar panels shall be installed within or on a structure, where feasible. Detached solar panels shall be subject to setback requirements for accessory buildings.

Section 709 – WASTE DISPOSAL, JUNK STORAGE AND JUNKYARDS

- A. Dumping of refuse, waste materials and other substances is prohibited in the Town except in specified areas designated by the Town Board as an official transfer station, waste collection point or recycling center. Only clean fill shall be used for the purpose of filling land to establish grades for future construction, for which a permit must be obtained in advance from the Code Enforcement Officer.
- B. Junk storage and junkyards are permitted provided the requirements of the Town of West Sparta Junk Storage Law are met and that a Site Plan has been approved by the Town Planning Board for commercial junkyards / auto salvage yards.
- C. No trash, garbage or other debris shall be stored outside of the waste container. The waste container must be securely covered and the cover closed tightly except when being filled or emptied. The waste container must be emptied as needed to prevent the occurrence of odors or infestation by pests. Waste container being used for temporary purposes such as construction or demolition may be excluded from some or all of these regulations if prior approval is obtained in writing from the Code or Zoning Enforcement Officer of the Town of West Sparta.

Section 710 – REQUIREMENTS FOR PRIVATE RESIDENTIAL DRIVEWAYS

- A. Permits:
An approved private driveway must be provided to within 40 feet of proposed residential structure prior to issuance of a building permit for that structure. Driveway permit approval will be made by the NYSDOT for driveways on State Highways, Livingston County Highway Department for driveways on County roads, and by the Town Highway Superintendent for driveways on Town roads.
- B. Construction:
 1. The base course shall be a minimum of 6 inches compacted gravel or stone.

2. The sub base shall be clear of all topsoil and root material and shall be rolled to insure proper compacting.
 3. Drainage provisions must be designed and implemented to insure continued stability of the driveway.
 4. Requirements of the Towns "Erosion and Sediment Control Law" shall be followed during the construction of the driveway
 5. Driveways off of paved roads must be paved or have a stabilized stone surface to a point 15 feet from the edge of the paved highway.
- C. Turn-around areas:
For any private driveway 200 feet in length or greater, as measured from the edge of pavement of the connecting public street, a turn around space suitable for large emergency vehicles shall be provided.
- D. Width:
The width of the traveled way shall be a minimum of 10 feet wide, a maximum of 16 feet wide and have a clear height of 14 feet over the full width of the driveway.
- E. Public Safety:
The location of the intersection of the driveway with a public road, the slope, and the configuration of the private driveway shall be subject to the review of the Town Highway Superintendent with respect to safety and emergency vehicle access, and to the State, County, or Town Highway department with respect to site distance.

Section 711 – REQUIREMENTS FOR COMMERCIAL AND INDUSTRIAL DRIVEWAYS

- A. Permits:
An approved driveway must be completed to within 40 feet of proposed structure prior to issuance of a building permit for that structure. Driveway permit approval will be made by the NYSDOT for driveways on state highways, Livingston County Highway Department for driveways on County roads, and by the Town Highway supervisor for driveways on Town roads.
- B. Construction:
1. The base course shall be a minimum of 8 inches compacted gravel or stone.
 2. The sub base shall be clear of all topsoil and root material and shall be rolled to insure proper compacting.
 3. Drainage provisions must be designed and implemented to insure continued stability of the driveway.
 4. Requirements of the Towns 'Erosion and Sediment Control Law' shall be followed during the construction of the driveway
 5. Driveways off of paved roads must be paved or have a stabilized stone surface to a point 15 feet from the edge of the paved highway.
- D. Turn-around areas:
For any driveway 200 feet in length or greater, as measured from the edge of pavement of the connecting public street, a turn around for large emergency vehicles shall be provided.
- E. Width:
The width of the traveled way shall be a minimum of 10 feet and a maximum of 24 feet wide and have a clear height of 14 feet full width.

F. Public Safety:

The location of the intersection with a public road, the slope, and the configuration of the private driveway shall be subject to the review of the Town Highway Superintendent with respect to safety and emergency vehicle access, and to the State, County, or Town Highway department with respect to site distance.

Section 712 – LIGHTING

All exterior lighting shall be designed, installed, and maintained so it will not cast direct light or glare upon adjacent properties or public right-of-way. The light source for exterior lighting proposed for the site shall not be higher than twenty (20) feet from the ground.

ARTICLE VIII. CRITERIA FOR GRANTING SPECIAL USE PERMITS

The following specifications shall be applied to all applications for special permits in addition to zoning district regulations and other requirements of this Code.

Section 801 – AIRPORTS

An application for the establishment, construction, enlargement or alteration on an airport shall include, in addition to requirements for special use permits outlined in Section 412, the following statements and information:

- A. Name and address of proponent.
- B. Classification of the proposed airport (commercial, non-commercial or restricted).
- C. Type of aviation activities proposed (aircraft sales and service, flight instruction, crop dusting, air taxi, etc.).
- D. Number of aircraft expected to be based at the airport initially and within five (5) years.
- E. Type of aircraft expected to be based at the airport (single engine, multi engine, turbo prop, jet, etc.).
- F. Whether an instrument approach procedure will be offered.
- G. Statement as to the anticipated number of daily operations.
- H. Copy of the airspace clearance granted by the Federal Aviation Administration for this airport, including USGS topographic map.
- I. A copy of the New York State Commissioner of Transportation's determination concerning this airport in accordance with the provisions of 249 of the New York State General Business Law.
- J. A site plan of the airport that includes the following in addition to other site plan requirements given in Article II.
 1. Scale no smaller than one inch equals one hundred feet (1"-100').
 2. Location of existing and proposed structures.
 3. Alignment of existing and/or proposed runways shall be shown in exact location and magnetic bearing to the nearest 30 minutes.
 4. Existing and proposed contours at five (5) foot intervals.

5. Location of aircraft parking and tie down areas.
 6. Provision for access and off-street parking.
 7. Provisions for sanitary waste disposal and water supply.
 8. Location and method of fuel storage.
- K. An area map at a scale of no less than one inch equals five hundred feet (1inch-500 feet') showing:
1. The distance of power lines or other possible obstructions within two thousand (2,000) feet of the ends of runways.
 2. All properties within five hundred (500) feet shall be plotted and owners identified.

Section 802 – BED AND BREAKFAST OR TOURIST HOME

- A. Number of rooms offered is limited to six.
- B. A minimum of one off-street parking space per room offered, plus two for use by residents, shall be provided.
- C. Sanitary facilities must be adequate to serve the potential number of bedrooms occupied.
- D. Suitable buffers and landscaping shall be installed when necessary to prevent headlight glare and noise from affecting neighboring property. .
- E. All applicable State regulations must be met.

Section 803 – CAMPING GROUNDS

Camping grounds shall be occupied only by travel trailers, pick-up coaches, motor homes, camping trailers, recreational vehicles, and tents suitable for temporary habitation and used for travel, vacation, and recreation purposes. The removal of wheels and placement of a unit on a foundation in a camping area is prohibited.

- A. Minimum site area: Fifteen (15) Acres.
- B. No more than ten (10) travel trailers, campers, tents, recreational vehicles or motor homes shall be permitted per acre of gross site area.
- C. A camping ground shall have a minimum of one hundred fifty (150) feet of frontage on a public street.
- D. Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences, nor shall any portion of the camping grounds subject to flooding, subsidence or erosion be used for any purpose that would expose persons or property to hazards.
- E. Management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundries, and other uses and structures customarily incidental to the operation of camping grounds are permitted as accessory uses to the camping grounds. In addition, small retail stores and other convenience establishments shall be permitted as accessory uses in camping grounds in such districts where such uses are not allowed as principal uses, subject to the following restrictions:

1. Such establishments and the parking areas primarily related to their operations shall not occupy more than five (5) percent of the gross area of the camping ground. Such establishments shall be restricted in their use to occupants of the camping ground.
 2. Such establishments shall present no visible evidence from any street outside the camping ground that would attract customers other than occupants of the camping ground.
 3. The structures housing such facilities shall not be located closer than one hundred (100) feet to any public street and shall not be directly accessible from any public street, but shall be accessible only from a street within the camping ground.
- F. Plans for sewage disposal and water supply shall be designed in accordance with standards promulgated by the New York State Department of Health and/or Environmental Conservation, and shall receive approval from such agencies.
- G. Streets in camping grounds shall be private, but shall be constructed with a stabilized travel-way and shall meet the following minimum requirements:
1. One way, no parking- 12 feet wide
 2. One way with parking on one side or
Two way with no parking- 18 feet wide
 3. Two way with parking on one side- 27 feet wide
 4. Two way with parking on both sides- 34 feet wide
- H. Each travel trailer site shall be at least two thousand five hundred (2,500) square feet in area and have a minimum width of forty (40) feet.
- I. A minimum of eight (8) percent of the gross area for the camping ground shall be set aside and developed as common use areas for open or enclosed recreation facilities. No travel-trailer site, required buffer strip, street right-of-way, storage area, or utility site shall be counted as part of this common use area.
- J. Entrances and exits to camping grounds shall be designed for safe and convenient movement of traffic into and out of the camping ground and to minimize friction with movement of traffic on adjacent streets. All traffic in or out of the camping ground shall be through such entrances and exits. An adequate lighting system shall be provided for the camping ground.
- K. All utilities shall be underground
- L. Not less than one (1) covered twenty (20) gallon garbage receptacle shall be provided for each campsite. Garbage and rubbish shall be collected and disposed of once a week or more often as may be necessary to insure sanitary conditions.
- M. All applicable sanitation standards promulgated by the State of New York shall be met.
- N. Setbacks: Each building or structure within a camping ground shall comply with the setback regulations applicable to the zoning district in which such camping ground is located, except that travel trailers, campers, tents, motor homes and the motor vehicles propelling or carrying the same may be located not closer than fifteen (15) feet to any side or rear lot line nor closer than sixty (60) feet to any front lot line.

Section 804 – CLUBS (LODGES, FRATERNAL ORGANIZATIONS, ETC.)

- A. Minimum lot size: Same as required in the underlying zoning.
- B. Landscaping areas or screening adequate to protect adjacent properties and land uses from lights and noise shall be provided on all side and rear lot lines.
- C. Minimum parking shall be one (1) per employee and one (1) per each three (3) members.

Section 805 – COMMERCIAL DAY CARE CENTERS

The following are provisions for commercial day care facilities.

- A. The facility must have an outdoor play area of 100 square feet per child.
- B. Outdoor play area must be appropriately fenced in or otherwise protected from roads and nearby properties.
- C. No outdoor play equipment may be placed within ten (10) feet of any property line, fence, or structure. Adequate buffering and landscaping will be provided, as the Planning Board may consider necessary.
- D. Minimum parking shall be one (1) space per staff member plus one (1) space per each ten (10) children.
- E. The light source proposed for the site shall not be higher than twenty (20) feet from ground level.
- F. All applicable New York State regulations must be met. “In home” day care facilities are considered home occupations and are therefore covered under the home occupation regulations of the applicable Zoning District.

Section 806 – RESTAURANTS WITH DRIVE UP WINDOWS

- A. The following information shall be submitted as part of the application for site plan approval and the special use permit for restaurants with drive up windows, in addition to that information required in other sections of the Code:
 - 1. The location and dimensions of all structures including buildings, screened trash areas, fencing and lighting (show direction and level of illumination).
 - 2. The location and dimensions of all off-street parking, drive up lane(s), and ingress and egress locations.
 - 3. Proposed landscaping of site.
- B. All restaurants with drive up windows shall be a minimum of two hundred (200) feet from other such business. Distance shall be computed as follows:
 - 1. For such businesses on the same side of the street, two hundred (200) feet between the two (2) closest property lines.
 - 2. For such businesses on opposite sides of the street, two hundred (200) feet measure diagonally between the two (2) closest property corners.
 - 3. For four corner intersections, one (1) such business may be located on diagonally opposite corners exclusive of the two hundred (200) feet distance requirement.
- C. All restaurants with drive up windows shall provide suitable storage of trash in areas which are designed and constructed as to allow no view of trash storage from the

street, to prevent waste paper from blowing around the site or onto adjacent properties or public right-of-way, and to permit safe, easy removal of trash by truck or hand.

1. The minimum distance from any driveway to the nearest property line shall be fifteen (15) feet.
 2. The minimum distance between driveways on site shall be sixty-five (65) feet measured from the two closest driveways' curbs.
 3. The minimum distance from a driveway into the site and any street intersection shall be thirty (30) feet measured from the intersection of the street right-of-way to the nearest end of the curb radius.
 4. Restaurants with drive up windows adjacent to or integrated into a shopping center or cluster of commercial facilities shall use the common access with other business establishments in that area.
- D. Landscaping and fencing shall be provided to minimize visual unattractiveness and minimize conflicts with adjacent land uses.
- E. Water supply and sewage disposal systems shall be reviewed by the Livingston County Health Department.

Section 807 – EXCAVATION AND MINING

- A. The applicant shall furnish evidence of a valid permit from the New York State Department of Environmental Conservation pursuant to Title 27, Article 23 of the Environmental Conservation Law when applicable.
- B. Minimum Lot Area is ten (10) Acres.
- C. All buildings and excavation operations shall be located or shall occur not less than one hundred (100) feet from any street or property line.
- D. All equipment used for excavations and processing shall be constructed, maintained and operated in such a manner as to eliminate, as far as practical, noises and vibrations, and dust conditions which are injurious or a nuisance to persons living in the vicinity.
- E. Screening shall be provided in the form of shrubs, trees, berms, fences or any combination of these in order to reduce noise levels, confine dust and flying particles, and minimize the visual impact of the operation.
- F. All land that has been excavated must be rehabilitated in accordance with reclamation plans approved by the Planning Board as part of the site development plan review and approval process within one (1) year after the termination of operations, at the expense of the operator.
- G. A performance bond or some other financial guarantee shall be required to assure that the conditions stipulated in the approval of the special permit are carried out.
- H. The Planning Board shall consider the following criteria in their review of the special use permit request:
 1. The current use of the property proposed to be excavated as well as the proposed use of that area subsequent to completion of the excavation and restoration.
 2. The potential short-term and long-term effects of the proposal on the aesthetics and environment of the area or of surrounding areas.

3. The effect on the property of the proposal that may change the productivity or suitability of the land for agricultural purposes and/or desirability or feasibility for future development purposes.
 4. The amount of time, as estimated by the applicant that will be required for the completion of the proposed excavation and the restoration of the property.
 5. Noise and/or vibrations that may be created by the proposed operation.
 6. Additional traffic that may be created by the proposed operation.
 7. Deleterious effects, if any, on the property and public roads in the general area of the proposed operation.
 8. All other criteria, which from time to time, may be relevant to a proposed operation.
- I. Special permits for excavation operations are of a two (2) year duration. Upon reapplication, the Zoning Enforcement Officer may grant permit renewal if all conditions of the original permit are complied with.
 - J. No persons, firm or corporation shall strip, excavate, or otherwise remove topsoil for sale or use other than on the premises from which taken, except in connection with the construction or alteration of a building on such premises and excavating or grading incidental thereto. Any area of land consisting of more than one (1) acre from which top soil has been removed or covered over by fill shall be seeded and mulched to provide an effective cover crop within the first growing season following the start of such operation.
 - K. All provisions of the Town of West Sparta Erosion and Sediment Control Law must be met.

Section 808 – FARM LABOR CAMPS

- A. Camps, whether private or commercial, shall meet all requirements of the State Sanitary Code and other applicable laws, rules or regulations.
- B. Housing facilities maintained shall be set back at least three hundred (300) feet from all property lines. Adequate buffering and landscaping will be provided, as the Planning Board may deem necessary.
- C. Special permits for labor camps are of one (1) year duration. Upon reapplication, the Zoning Enforcement Officer may grant permit renewal if all conditions of the original permit are complied with.

Comment [WC1]:

Section 809 – GAS STATION (May include convenience store)

- A. Entrance and exit driveways shall have an unrestricted width of not less than twenty-four (24) feet and not more than thirty (30) feet, and shall be located not nearer than fifteen (15) feet from any property line, and shall be designed to avoid the necessity of any vehicle backing into any public right-of-way.
- B. Entrance and exit points shall be from a major or secondary road.
- C. All buildings shall be setback from the major or secondary street line a distance of not less than fifty (50) feet.
- D. Gasoline pumps shall be located not less than thirty (30) feet from the street line and not less than thirty (30) feet from all other property lines.

- E. All buildings shall be setback from the major or secondary street line a distance of not less than fifty (50) feet.
- F. No such establishment shall be located within a distance of two hundred (200) feet of a school, church, hospital, nursing home, senior citizen housing or other place of public assembly designed for occupancy by more than fifty (50) persons, or within 500 feet of another gasoline station or repair garage on the same side of a street. Said distance shall be measured in a straight line between the nearest points of each lots or premises.
- G. Landscaped areas of a least ten (10) feet in width shall be provided along property lines to lessen any visual unattractiveness.
- H. The entire area of the site traveled by motor vehicles shall be hard surfaced..

Section 810 – HOSPITALS, ADULT CARE FACILITIES, NURSING HOMES, AND HEALTH-RELATED FACILITIES

- A. Off-street parking shall be provided as required in Section 702.
- B. Adequate buffering and landscaping will be provided as the Planning Board may determine necessary.
- C. Sewer and water facilities shall receive approval of the Livingston County Health Department and the New York State Department of Environmental Conservation.

Section 811 – HOTELS AND MOTELS

- A. Minimum Lot Size: two (2) acres; minimum lot width: two hundred (200) feet; minimum front setback: one hundred (100) feet; minimum side and rear setbacks: forty (40) feet.
- B. Restaurants, cafeterias, swimming pools, newsstands, pharmacies, barbershops, hairdressers, gift shops and other personal service shops for the convenience of guests may be permitted as accessory uses. With the exception of an identifying sign for the restaurant, no external evidence of these internal commercial activities is permitted.
- C. Adequate buffering and landscaping will be provided as the Planning Board may determine necessary.

Section 812 – KENNELS AND ANIMAL HOSPITALS

- A. Minimum Lot Size: Same as required by zoning.
- B. Adequate landscaping or fencing shall be provided to create a visual, sound and smell buffer between such facility and adjacent properties.
- C. All buildings, structures and other accessory uses shall be at least seventy-five (75) feet from any property line.
- D. All animals shall be kept within a totally enclosed building between 8:00 p.m. and 6:00 a.m.
- E. Lot coverage shall not exceed fifty (50) percent.
- F. Outside dog runs shall be located at least two hundred (200) feet from the nearest dwelling other than that of the owner or user of the property, and at least seventy-five (75) feet from any property line.

Section 813 – MOBILE HOMES (Singlewide)

- A. Singlewide mobile homes must conform to current New York State Mobile Home Standards as determined by the Town CEO.
- B. The base of the mobile home must be enclosed, within sixty (60) days of delivery to the site, with wood, concrete block, metal, rigid plastic, or other factory approved material attached in a permanent, workmanlike manner.
- C. All New York State and Livingston County sanitary conditions must be observed.
- D. Each entrance must have a professionally designed and built set of stairs.

Section 814 – MOBILE HOME PARKS

- A. Special use permits for the establishment and operation of mobile home parks are of a one (1) year duration. Upon reapplication, the Zoning Enforcement Officer may grant a permit renewal if all conditions of the original permit are complied with. Mobile homes placed in the park must meet minimum HUD standards and NYS Uniform Fire Prevention and Building Code standards.
- B. The minimum site area of proposed mobile home parks shall not be less than twenty (20) acres.
- C. Mobile home lots shall have an area of not less than seven thousand two hundred (7,200) square feet. Each mobile home lot shall front on an interior park roadway and have a minimum width of fifty (50) feet.
- D. Minimum front setback for mobile homes: twenty (20) feet; minimum side setback: five (5) feet on one side with a total of twenty (20) feet on both sides; minimum rear setback: ten (10) feet.
- E. The minimum setbacks of every mobile home, building or other structure in a mobile home park from the nearest public street line shall be seventy (70) feet, and from every other lot line of the mobile home park shall be forty (40) feet.
- F. Not more than one (1) mobile home shall be located on any one (1) mobile home lot. Every mobile home within a mobile home park shall be located on a mobile home lot or in a designated storage area shown on the approved site plan for said park.
- G. At least one (1) service building shall be constructed in each mobile home park which shall be adequate to provide storage for all equipment, tools and materials necessary for the maintenance of the park, and all such equipment, tools and materials shall be stored within said building when they are not in use.
- H. Each mobile home lot must have not less than two (2) off-street parking spaces. Such parking spaces shall be connected to the entrance of the mobile home by a paved sidewalk having a minimum width of twenty-four (24) inches.
- I. No boats, campers, travel trailers, recreational vehicles, or unregistered and unlicensed motor vehicles shall be parked or stored at any place within a mobile home park except in areas designated and approved for such storage as part of the site plan approval.

- J. Every roadway within a mobile home park shall have a minimum pavement width of twenty-two (22) feet and a minimum right-of-way width of fifty (50) feet. If cul-de-sacs exist, they shall have a minimum diameter of seventy (70) feet.
- K. A complete water distribution system approved by the Health Department, including a water service pipe for each mobile home lot and approximately spaced fire hydrants shall be installed.
- L. A public sanitary sewage disposal system approved by the Health Department and other appropriate agencies shall be installed, including a sewer connection for each mobile home lot.
- M. All public utility, electric, gas, cable television and telephone lines shall be installed underground.
- N. Appropriate street lighting shall be installed on interior roadways with the minimum number of lights being one at each intersection of interior roadways with each other, or with abutting public road, and at least every two hundred (200) feet where such intersections are more than two hundred (200) feet apart. 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 above the ground.
- O. Pedestrian walkways shall be provided along at least one side of all interior streets having a width of approximately four (4) feet.
- P. A landscape plan shall be prepared and carried out which will assure the Planning Board that an appropriate planting of trees and shrubs will be included in the park design, including screening when necessary.
- Q. No mobile home shall be located on a mobile home lot until the roadways, sanitary sewage disposal system, water supply system and storm drainage system serving said mobile home lot have been installed in accordance with the approved site plan for the mobile home park.
- R. Each roadway shall be named and noted upon signs at each roadway intersection. Each mobile home lot shall be assigned a permanent number that shall be noted on the mobile home lot in location clearly visible from the roadway.
- S. All fuel tanks used for heating within a mobile home park, including all fuel tanks used for heating within mobile homes, shall be installed in accordance with NFPA standards.
- T. Every mobile home park shall have a recreational area or open-space area for use by the occupants of the mobile home park. Such areas shall be as centrally located as the topography and design of the park permit. Such area shall be not less than ten thousand (10,000) or one thousand (1,000) square feet per mobile home lot in the park, whichever is greater.
- U. The park owner shall provide for weekly collection and disposal of garbage, trash and rubbish. Trash receptacles shall meet the provisions of Section 709 C of this code.
- V. Not more than one (1) accessory building shall be permitted on any mobile home lot.
- W. Each mobile home shall be enclosed at the bottom with a skirt or enclosure within thirty (30) days after the placement of the mobile home on the lot.

- X. No enclosure or addition, with the exception of carports, door porches, and patios, shall be constructed or added or attached to the exterior of any mobile home.
- Y. No mobile home shall be offered for sale, display for sale or sold within a mobile home park unless such mobile home is located on a mobile home space and is connected to an electric public utility supply and to a public sewer and public water supply.
- Z. Every roadway within a mobile home park shall be maintained in good repair and shall be open at all times reasonably possible for travel by occupants of the park and necessary fire, police, ambulance, public utility maintenance and fuel supply vehicles. The park owner shall be responsible for providing and paying the cost of such maintenance and all necessary snow removal. The provisions of this subsection shall apply to mobile home parks hereafter established within the Town.
- AA. Any sale of a mobile home space or spaces or portion of a mobile home park, other than the entire mobile home park, as shown on the plan of such park approved by the town, shall immediately invalidate the permit for such park approved by the Planning Board.
- AB. Any use of any of the premises within the mobile home park other than as a mobile home park shall thereupon immediately invalidate the special permit of such park approved by the Planning Board.

Section 815 – MOTOR VEHICLE/AGRICULTURAL EQUIPMENT REPAIR SHOPS

- A. Entrance and exit driveways shall have an unrestricted width of not less than twenty-four (24) feet and not more than thirty (30) feet, and shall not be located nearer than fifteen (15) feet from any property line, and shall be designed as to avoid the necessity of any vehicle backing out into any public right-of-way.
- B. No more than ten (10) licensed motor vehicles being serviced or repaired shall be stored or parked outdoors for more than one week. Unlicensed vehicles/equipment must be stored so as not to be visible from the public highway or neighboring properties. Adequate buffering and landscaping will be provided as the Planning Board may determine necessary. All vehicles shall be stored in a neat, orderly manner.
- C. Any repair of motor vehicles / agricultural equipment shall be performed in a fully enclosed building and no more than two (2) motor vehicles shall be offered for sale on the site at any one time. No motor vehicle parts or partially dismantled motor vehicles shall be stored outside of an enclosed building.

Section 816 – MULTIPLE FAMILY DWELLINGS

This section refers to structures build specifically as multiple family dwellings or remodeled to contain more than two units. It does not apply to single-family homes with one ‘in-law’ apartment, maids quarters, or similar.

- A. The maximum gross density shall not exceed eight (8) units per acre
- B. Minimum habitable floor area requirements:
 - 1. Townhouse units, two (2) bedrooms or less: eight hundred fifty (850) square feet.
 - 2. Townhouse units, three (3) bedrooms or more: one thousand (1000) square feet.

3. Apartment unit, efficiency: five hundred fifty (550) square feet.
 4. Apartment unit, one (1) bedroom: six hundred seventy-five (675) square feet.
 5. Apartment unit, two (2) bedrooms: eight hundred (800) square feet.
 6. Apartment unit, three (3) bedrooms: nine hundred fifty (950) square feet.
 7. No more than twenty (20) percent of the total units within a multiple family dwelling development shall be three (3) or more bedrooms units.
- C. Setback requirements:
1. The minimum front setback from any public street shall be seventy (70) feet.
 2. The side and rear setbacks shall be fifty (50) feet from all other lot lines.
 3. Minimum distance between buildings in a multiple family dwelling development shall be eighty (80) feet.
- D. All stairways to the second floor or higher shall be located inside the building.
- E. Access to the public road:
1. All multiple family dwelling developments must have direct access to public road.
 2. If there are more than twelve (12) dwelling units in a multiple family dwelling development, direct access must be provided to a public road by a private driveway or road dedicated to the Town by the developer.
 3. If there are more than fifty (50) dwelling units in a multiple family development, or if in the opinion of the Planning Board the location or the topography of the site indicates the need for additional access, the Planning Board may require such additional access as a condition of site plan approval.
- F. Off-street parking shall be provided in the amount of two (2) spaces for each unit.
- G. The aggregate lot coverage of the multiple family dwelling developments shall not exceed thirty (30) percent of the total lot area.
- H. Plans submitted for site plan approval shall include: sewage disposal, water supply, storm drainage, landscaping, and lighting.. Adequate buffering and landscaping shall be provided as the Planning Board may determine necessary.

Section 817 – PUBLIC AND SEMI-PUBLIC BUILDINGS AND GROUNDS

- A. Minimum lot size: See zoning schedule; minimum lot frontage: 100 feet.
- B. Landscaped area at least ten (10) feet in width or other suitable screening, shall be provided for the entire length of any lot line adjacent to any residence or adjacent street.
- C. No structure of use shall be located within fifteen (15) feet of any adjacent property line.
- D. Entrance and exit points shall be from major or secondary roads.
- E. Driveways and parking areas shall not be within fifteen (15) feet of any property line.

Section 818 – PUBLIC UTILITIES AND OTHER ESSENTIAL SERVICES

- A. Essential services may be allowed as special permit uses in all zoning districts.
- B. The Planning Board shall determine the following prior to approving a special permit:

1. The proposed installation in a specific location is necessary and convenient for the efficiency of the essential service or the satisfactory and convenient provision of service to the area in which the particular use is located.
2. The design of any building in connection with such facility shall conform to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property rights in the district in which it is to be located.
3. Adequate landscaping will be provided to create a visual and sound buffer between such facilities and adjacent property.
4. All new and replacement electric distribution, telephone, cable TV and other lines shall be placed underground where practical.
5. All new and replacement service connections from distribution lines to consumers shall be placed underground where practical.
6. All new and replacement points of necessary access, or transformers, shall be placed in secure structures at ground level where practical.
7. All major electrical transformed facilities or substations, if above ground, shall be secured by an outer and inner fence, each ten (10) feet from each other at any point; also no transformer or associated switches shall be closer than one hundred (100) feet from any lot line.

Section 819 – STORAGE, USING EXISTING FARM BUILDINGS FOR NON-FARM RELATED STORAGE

- A. A special permit is required only for the commercial storage of non-agricultural items in a building originally constructed for agricultural purposes. These items include but are not limited to boats, automobiles, trucks, campers and recreational vehicles.
- B. The Code Enforcement officer shall inspect the building annually to insure that there is no violation of health, safety, or fire codes.
- C. No sales of goods shall take place.
- D. Adequate parking, drainage and landscaping shall be required.

Section 820 - AUTO SALVAGE / DISMANTLER / JUNKYARD

All junkyards, auto salvage businesses, and auto dismantlers must meet the requirements of the Town of West Sparta Junk Storage Law.

Section 821 – ADULT ENTERTAINMENT

Refer to the Town of West Sparta Local Law

ARTICLE IX. SITE PLAN REVIEW

Section 900 - PURPOSE

The intent of this Article is to set forth additional general standards applying to certain land uses and activities. The nature of these uses and activities requires special consideration of their

impacts upon surrounding properties, the environment, community character and the ability of the Town to accommodate development consistent with the objectives of this Code.

Section 901 - APPLICATIONS

A. All applications for zoning permits, zoning variances, or special permits shall be accompanied by an application for site plan approval.

B. One and two family dwellings and their permitted accessory uses or any addition to a single family dwelling in the Flood Hazard district shall require a Site Plan Review. No zoning permit shall be issued until all the requirements of this Article and all other applicable provisions of this Code have been met.

Exception: One and two family dwellings and their permitted accessory uses or any addition to a single family dwelling, or general farming use, not in the Flood Hazard district shall not require a Site Plan Review.

Section 902 - PROCEDURE

A. Each application for a building permit, variance or special permit for any structure, building, or use as stated above shall submit a Site Plan application to the Town Planning Board. The application shall be made to the Planning Board by filing it with the Zoning Enforcement Officer or Code Enforcement Officer. The Zoning Enforcement Officer shall present it to the Planning Board at their next regularly scheduled meeting. The applicant may wish to attend the Planning Board meeting to answer questions concerning the application.

B. Within forty-five (45) days of receipt of the application or sixty (60) in cases when the application must be referred to the County Planning Board in accordance with General Municipal Law, Section 239m, the Planning Board shall render a decision to approve with conditions, deny, and forward the decision to the Code Enforcement Officer. An extension of this forty-five (45) day period may be granted upon consent of both the applicant and the Town Planning Board. If the Planning Board fails to act within the said forty-five (45) day period or extension that has been granted, the site plan shall be considered approved.

C. A full written record of the Planning Board minutes and decisions together with all documents pertaining to the case shall be filed in the office of the Town Clerk and shall be mailed to the applicant.

Section 903 - PRE-APPLICATION CONFERENCE

A pre-application conference may be held between the Planning Board and the applicant to review the basic site design concept and generally determine the information required on the new site plan.

Section 904 - APPLICATION FOR SITE PLAN APPROVAL

An application for site plan approval shall be made in writing to the Zoning Enforcement Officer and shall be accompanied by information drawn from the following checklist. The Planning Board may require additional information if necessary to complete its review.

- A. Plan checklist for all site plans:
 - 1. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
 - 2. North arrow, scale and date.
 - 3. Boundaries of the property plotted to scale.
 - 4. Existing watercourses, wetlands, and bodies of water.
 - 5. Location of any slopes of 15% or greater.
 - 6. Proposed grading and drainage.
 - 7. Location, proposed use and height of all buildings and site improvements including culverts, drains, retaining walls and fences.
 - 8. Location, design and construction materials of all parking and truck loading areas, showing points of entry and exit from site.
 - 9. Location of outdoor storage, if any.
 - 10. Description of method of sewage disposal and location of facilities.
 - 11. Identification of water source and, if a well, its location.
 - 12. Location, size and design and construction materials of all proposed signs.
 - 13. Location and proposed development of all buffer areas, including existing vegetative cover.
 - 14. Location and design of outdoor lighting facilities.
 - 16. Proposed landscaping plan.
 - 17. Location and description of any historic structures within 500 feet of the parcel.
- B. As necessary, the Planning Board may also require the following:
 - 1. Provision for pedestrian access, if necessary.
 - 2. Location of fire lanes and hydrants.
 - 3. Designation of the amount of building area proposed for retail sales or similar commercial activity.
 - 4. Other elements integral to the proposed developments as considered necessary by the Planning Board.

Section 905 - PLANNING BOARD REVIEW OF SITE PLAN

The Planning Board's review of the site plan shall include, as appropriate, the following:

- A. General considerations
 - 1. Adequacy and arrangements of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
 - 2. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
 - 3. Location, arrangement, appearance and sufficiency of all off-street parking and loading.

4. Location, arrangement, size and design and general site compatibility of buildings, lighting and signs.
 5. Adequacy of storm water and drainage facilities.
 6. Adequacy of water supply and sewage disposal facilities.
 7. Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum feasible retention of existing vegetation.
 8. In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation.
 9. Protection of adjacent or neighboring properties against noise, glare, unsightliness or nuisance.
 10. Protection of solar access on adjacent or neighboring properties.
 11. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
 12. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
 13. Protection of fish and wildlife habitat including but not limited to the preservation/reestablishment of buffer zones along creeks, wetlands, and ponds.
 14. Impact of the proposed project on any historic structure within 500 feet of the boundaries of the parcel
- B. Consultant Review
The Planning Board may consult with the town building inspector, fire commissioners, highway department, county planning department and other local county officials, in addition to representatives of federal and state agencies including, but not limited to, the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.
- C. Public Hearing
The Planning Board may conduct a public hearing of the site plan. If a public hearing is considered desirable by a majority of the members of the Planning Board, such public hearing shall be conducted within forty-five (45) days of the receipt of the application and shall be advertised in the official newspaper of the town at least five (5) days before the public hearing. Decision shall be rendered within forty-five (45) days of the public hearing.

The Planning Board shall give notice to the Clerk of an adjacent municipality when a public hearing is held for a site plan review on property that is within five hundred (500) feet of the adjacent municipality. Such notice shall be given by mail or electronic transmission to the Clerk of the adjacent municipality at least ten (10) days prior to any such hearing.

ARTICLE X. Definitions

Section 1000 – WORD TERMS AND DEFINITIONS

For the purpose of these regulations, certain terms or words used herein shall be interpreted as follows:

The word “person” includes a firm association, organization, partnership, trust, company or corporation as well as an individual.

Words used in the present tense include the future tense.

The singular includes the plural.

The words “shall” and “must” are mandatory.

The words “used” or “occupied” include the words intended, designed or arranged to be used or occupied.

The word “lot” includes the words plot or parcel.

Section 1001 – DEFINITIONS

ACCESSORY USE OR STRUCTURE: A use or structure on the same lot and of a nature customarily incidental and subordinate to the principal use or structure such as a private garage for a single family home.

AGRICULTURE: The use of land for agricultural purposes including tilling of the soil, dairying, pasture, agriculture, arboriculture, horticulture, floriculture, viticulture, forestry, animal and poultry husbandry and the necessary accessory uses for packing and storing products, provided that the operation of any such uses shall be secondary to that of normal agriculture activities, and provided that such uses shall not include the commercial feeding of garbage and offal to swine or other such animals.

AIRPORT: Any facility for the purpose of engaging aircraft to flight, other than non-commercial use of private land by the property owner.

ALTERATIONS: As applied to a building or structure, a change in 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.

ALTERNATIVE ENERGY SYSTEMS: Structures, equipment, devices or construction techniques used for the production of heat, light, cooling or other forms of energy on site and may be attached to or separate from the principal structure. Examples include wind machines, solar photovoltaic panels, and solar water heaters.

ANIMAL HOSPITAL: A business that treats animals and regularly houses them on the premises overnight and for extended periods of treatment.

APPEAL: A request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance

BED AND BREAKFAST OR TOURIST HOME: A dwelling in which overnight accommodations (six or fewer bedrooms) are offered or provided for transient guests for compensation but such use is secondary to the occupancy of the dwelling by a family.

BUILDING: see "STRUCTURE."

BUILDING HEIGHT: The vertical distance measured from the mean level of the ground surrounding the building to a point midway between the highest and lowest point of the roof, but not including chimneys, spires, mechanical penthouses, towers, tanks, and similar projections.

CAMPING TRAILER: Any vehicle used or arranged for temporary living or sleeping purposes, mounted on wheels and drawn by a power driven vehicle.

CAMPGROUND: A parcel of land used or intended to be used, let or rented for occupancy by campers or for occupancy by or of trailers, tents or movable temporary dwellings, rooms or sleeping quarters of any kind.

CARPORT: A roofed structure, with two enclosing walls, used for storage of one or more automobiles.

CLUB: Any organization catering to members and their guests, or premises and buildings for recreational or athletic purposes and not open to the general public, which are not conducted primarily for gain, providing there are not conducted any vending stands, merchandising, or commercial activities except as required for the membership and purposes of such club. For the purpose of this code, club shall include lodges, fraternal organizations, mutual benefit societies, and other like organizations.

CODE ENFORCEMENT OFFICER: The official designated to administer and enforce the NYS Code.

CRAWL SPACE: An enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials excluding normal maintenance to farm roads.

DWELLING: Any building or portion thereof designed or used exclusively as a residence or sleeping place of one (1) or more person, including a mobile home.

SINGLE-FAMILY: A detached residential dwelling designed for and occupied by one family only.

TWO-FAMILY: A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

MULTIPLE FAMILY: A residential building designed for or occupied by three or more families with the number of families in the residence not exceeding the number of dwelling units provided.

SEASONAL HOME: A dwelling unit intended for occupancy only during certain seasons of the year, principally for recreational use by the owner, including hunting cabins, vacation cottages, summer cottages and vacation lodges.

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

EXCAVATION (QUARRY, SAND PIT, GRAVEL PIT, TOP SOIL STRIPPING): A lot or land or part thereof used for the purpose of extracting stone, sand, gravel, or top soil for sale, as an industrial or commercial operation, but does not include the process of grading a lot preparatory to the construction of a building which has an approved zoning permit.

FAMILY: One or more persons related to each other by blood, marriage or adoption (or not more than four individuals who are not related but living together as a single housekeeping unit). A group home for not more than twelve (12) persons, seventeen (17) years of age or less who are not related, as above, to the adult occupants of the unit shall be considered a family for this ordinance when it has a structure akin to a traditional (biological unitary) family and an external appearance of a relatively normal, stable and permanent family unit and is operated or supervised by a qualified social services agency.

FARM LABOR CAMP: A labor camp housing facilities, building or buildings in which people are housed who are employed in the individual farmer's personal farming operation.

FLOOD HAZARD AREA, SPECIAL: Maximum area of the flood plain that on average, is likely to be flooded once every 100 years.

FLOOD or FLOODING: means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable

event which results in flooding as defined in (1) above.

FLOOD BOUNDARY and FLOODWAY MAP (FBFM): An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD PLAIN: Any land area susceptible to being inundated by water from any source (see definition of "Flooding").

FLOODWAY ENCROACHMENT LINES: The lines marking the limits of the floodways on official Federal, State and local flood plain maps.

FLOOR AREA: For the purposes of applying the requirements for off-street parking and loading, "gross floor area" in the case of offices, merchandising or service types of uses, shall mean the total floor area to be used or intended to be used by tenants, or for service to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for display or sales or merchandise. It shall not include areas used principally for non-public purposes such as storage, incidental repair, restrooms, fitting or alteration rooms or general maintenance or enclosed pedestrian malls or corridors.

FLOOR AREA, HABITABLE: The sum of the gross horizontal areas of the floor or floors of a building that are enclosed and usable for human occupancy or the conduct of business.

GARAGES (PRIVATE): An accessory building not operated for gain or used in conjunction with a principal building that provides for the storage of motor vehicles and/or other household items.

HISTORIC STRUCTURE: means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (i) By an approved state program as determined by the Secretary of the Interior or
 - (ii) Directly by the Secretary of the Interior in states without approved programs.

HOME OCCUPATION: An occupation conducted in a dwelling unit or customary accessory structure provided that: The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants.

HOTEL: see "MOTEL."

JUNK YARD: A lot, land or structure or part thereof used for the collection, storage, disassembly, packing, storing, salvage, buying, selling or exchange of waste paper, rags, scrap, or discarded material or machinery parts of any sort, including house wrecking yards, used lumber yards, structural steel materials. This does not include used furniture, used clothing, pawnshops, or antique shops. Automobile junkyards as defined in the General Municipal Law; Section 136 shall be included within this definition.

KENNEL: Any lot or premises, on which four (4) or more adult dogs are housed, groomed, bred, boarded, trained or sold.

LOT: A parcel or area of land, the dimensions and extent of which are determined by the latest official records or recordings.

LOT, CORNER: A parcel of land at the junction of, and fronting on two or more intersecting streets.

LOT, THROUGH: An interior lot having frontage on two parallel or approximately parallel streets.

LOT DEPTH: The main distance from the street line (highway right-of-way) of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

LOT FRONTAGE: The front of the lot shall be construed to be the portion nearest the highway. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to highways shall be considered frontage, and yards shall be provided as indicated under "YARDS" in these definitions.

LOT LINE: Any boundary line of a lot.

LOT WIDTH: The width of the lot between side lot lines at the front building line as prescribed by the front yard regulations.

MANUFACTURED HOME: A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include "Recreational vehicles."

MOBILE (MANUFACTURED) HOME PARK: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MOBILE HOME: The same meaning as a 'single-wide' Manufactured home, a structure 14' or less in width and transportable in one section.

MANUFACTURED HOME - DOUBLE WIDE: A structure consisting of at least two sections, forming a home with a total width at its narrowest point of at least 24 feet.

MOBILE HOME/MANUFACTURED HOME PARK: Any site, lot, field, plot, parcel or tract of land on which two (2) or more mobile homes or manufactured homes are parked or located and for which use said premises are offered to the public or to any person for a fee of any type, including cost sharing.

MODULAR HOUSE: A housing unit constructed off-site consisting of more than one segment and designed to be permanently anchored to a foundation, to become a fixed part of the real estate, and which meets all the standards of the New York State Building Code.

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 to accommodate the occupants, but open to the general public. The term "motel" includes 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.

NON-CONFORMING LOT: A lot existing at the time of the enactment of this code or any amendment thereto, which does not conform to the area regulations of the district or zone in which it is situated.

NON-CONFORMING USE: A use of land existing at the time of enactments of this code and which does not conform to the regulations of the district or zone in which it is located.

PARKING SPACE: Space available for the parking of one motor vehicle exclusive of passageways and driveways giving access thereto.

PARKING SPACE, OFF-STREET: An off-street area of berth with an appropriate means of vehicular access to a street, intended for the temporary storage of vehicles.

PERMITTED USE (OR USE OF RIGHT): A land use allowed under the regulations of this code.

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

PUBLIC AND SEMI-PUBLIC BUILDINGS AND GROUNDS: The words "public and semi-public buildings and grounds," as used in this code are intended to designate any one (1) or more of the following uses, including but not limited to grounds and accessory buildings necessary for their use:

Churches, places of worship, parish houses, and convents.

Public parks, playgrounds and recreational areas when authorized and/or operated by a governmental authority.

Nursery schools, elementary schools, high schools, colleges, or universities.

Golf courses and country clubs, however, not including clubs whose activities include the maintenance, storage or takeoffs or landing of aircraft, nor motorized racing.

Public libraries and museums.

Not-for-profit fire, ambulance, and public safety buildings.

Proprietary or not-for-profit hospitals for the care of human beings, nursing homes, convalescent home, homes for adults, homes for the aged as the same are defined under Public Health Law or the Social Services Law of the State of New York, provided that they are duly licensed by the State of New York.

Not-for-profit Membership Corporation established for cultural, social or recreational purposes.

Recreational facilities, either for profit or not-for-profit, such as swimming tennis, platform tennis, bowling, hockey, ice skating or other indoor or outdoor sports.

PUBLIC UTILITIES OR OTHER ESSENTIAL SERVICES: Erection, construction, alteration, operation or maintenance by municipal agencies or public utilities of telephone dial equipment centers, electrical or gas substations, water treatments or storage facilities, pumping stations and similar facilities.

RECREATION AREA: Recreation area is the sum of all open areas used for recreation purposes.

RECREATIONAL VEHICLE: A vehicle that is:

- (1) Built on a single chassis.
- (2) 400 square feet or less when measured at the largest horizontal projections.
- (3) Designed to be self-propelled or permanently towable by a light duty truck and
- (4) Not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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 or refreshment stand at a public or quasi-public or community pool, playground or park operated by the agency or group or an approved vendor operating the recreational facilities and for the convenience of patrons of the facility shall not be deemed to be a restaurant.

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

GAS STATION: Any establishment that sells gasoline to the public. This includes service stations, convenience stores, car washes or any other facility that sells gasoline.

ROAD, LOCAL: Street that primarily function to gives direct access to abutting property. Local roads are the internal part of the system to provide movement within residential or other land use areas.

ROAD, MAJOR: Streets or highways connecting through roads with each other and which also handle internal movement within the city, town or village.

ROAD, SECONDARY: Streets serving to connect major roads with each other and which also handle internal movement within the city, town or village.

SETBACK - FRONT: The required open, unoccupied space between the street line and the front of the main structure, but not including porches, entrance steps, and other similar structures on the front of the main structure.

SETBACK - BACK: The required open, unoccupied space measured from the rear lot line to the nearest part of the main or accessory structure.

SETBACK- SIDE: The required open, unoccupied space measured from the side lot lines to the nearest part of the main or accessory structure.

SIGN: Any device, structure, or object for visual communication that is used for the purpose of bringing the subject thereof to the attention of others, but not including any flag, badge or insignia of any public, quasi-public, civic, charitable, or religious groups.

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

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

SITE PLAN REVIEW: A review and approval process for uses other than one and two family residential dwellings and mobile homes, conducted by the Planning Board, whereby Site Plans are reviewed using criteria stated in this Code.

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

SPECIAL PERMIT USES: Those particular uses which are specifically permitted in a given district only when conditioning criteria enumerated in this Code are met.

STRUCTURE: Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, and storage tanks.

SWIMMING POOL: Any body of water, or receptacle for water, having a capability of a depth of eighteen (18) inches or more at any point, used or intended to be used for swimming, bathing, or wading, and permanently installed or constructed either above or below ground.

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

USE: The specific purpose for which land or a building is designated, arranged, intended, or for which it may be occupied or maintained.

VAR IANCE: A grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

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

YARD - FRONT: The space within and extending the full width of the lot from the front lot line (the lot line which is parallel to, and closest to the street) to the part of the principal building which is nearest to such front line.

YARD - REAR: An open space extended across the entire width of the lot between the rear wall of the principal building and the rear lot line of the lot, and unoccupied except for accessory buildings and open porches.

YARD - SIDE: An open space on the same lot with a principal building between the principal building and the side line of the lot extending through from the front yard to the rear yard into which space there shall be no extension of building parts other than two (2) feet for rain water leaders, window sills or other such features, or open steps.

ZONING ENFORCEMENT OFFICER: The official designated to administer local zoning regulations and local laws pertaining to zoning.