

TOWN OF TURIN RURAL DEVELOPMENT LAW

Local Law Number 3 of 1998
Adopted on 14 December 1998

Includes Local Law #2 of 2007
Effective 10 November 2007

Includes 2011 Amendments

Includes 2019 Amendments

Includes 2022 Amendments

ARTICLE 1. INTRODUCTION

Section 110. Title

This law shall be known as the “The Town of Turin Rural Development Law.”

Section 120. Purpose

This law is adopted pursuant to Articles 2 and 3 of the New York State Municipal Home Rule Law and Article 16 of the New York State Town Law. The objectives of this law are to:

1. Protect the open and natural character of the land.
2. Provide for the controlled growth of residential and commercial use of land consistent with the economic and social needs of the community without interfering with existing land use.
3. Preserve the Town's natural resources, particularly the water supply.
4. Promote the health, safety and general welfare of the community consistent with the objectives of Article 16 of the Town Law.
5. Be aware of and consistent with the goals and policies common to adjacent communities.
6. To make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor.

Section 130. Previous Regulations

This law shall replace and supersede Part I and Part V of the Town of Turin Rural Development Code.

Section 140. Definitions

Except where specifically defined, all words used in this law shall carry customary meaning. Words used in the present tense include the future and the plural includes the singular.

Accessory Apartment: A second dwelling unit located on the same lot as a principal single-family dwelling, located either within the principal dwelling or within an accessory building, which is subordinate to the principal dwelling in terms of size, location, and appearance. Such a dwelling is an accessory use to the principal dwelling.

Accessory Structure: A subordinate structure located on the same lot with the main structure, occupied by or devoted to an accessory use, excluding fences. Where an accessory structure is attached to the main structure in a substantial manner, as by a wall or roof, such accessory structure shall be considered part of the main structure.

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

Advertising Sign: A sign which is designed solely for advertising a service or product.

Agriculture: The raising of crops, animals or animal products, the selling of products grown on premises, and any other commonly accepted agricultural operations. Incidental mechanical processing of products is included, as well.

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

Alteration: The increase in ground coverage of any principal or accessory structure. This definition shall apply only to structures which have a height of four feet or more above ground level.

Antenna: A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, and microwave communications. The frequency of these waves generally range from 10 hertz to 300,000 megahertz.

Bed and Breakfast: A building designed to provide overnight accommodations, with or without meals, for transient guests for profit, but only where the use is secondary to the continuous occupancy of the dwelling by a family, and provided that no more than five rooms are for hire. Each room shall have an interior entrance into the house; no room for hire shall have an exterior entrance.

Board of Appeals: A board either 1) appointed by the town board, or 2) contracted with pursuant to intermunicipal agreement, to hear and decide appeals of this law.

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

Bulk Storage: Materials stored in large quantities which are usually dispensed in smaller units for use or consumption.

Camp: A building designed as a part-time dwelling for a family, usually inaccessible by automobile during several months of the year and lacking improvements necessary for permanent use as a dwelling.

Campground: Land on which are located, or held open to the public for, two or more cabins, recreational camping vehicles, tents, shelters, or other accommodation suitable for seasonal or temporary living purposes, excluding mobile homes.

Campsite: A campsite is a seasonal, interim use and not intended to be a permanent livable residence and lacks the physical features of a dwelling. Campsites are temporary and shall not be used as a residence and must be mobile and moved without any additional structural features. FEMA trailers are temporary housing units and are not allowed. Storage units are not permitted within campgrounds.

Cemetery: Property used for the interring of the dead.

Certificate of Compliance: A certification by the enforcement officer that a lot, structure, or use of land has been developed in conformity with an approved land use permit and complies with the provisions of this law, and may be occupied and used for the purposes specified in such land use permit and certificate of compliance.

Commercial and Processing Use: A commercial or manufacturing activity which involves the manufacturing and processing of raw materials which have been harvested either on or off the site.

Commercial Establishment: A commercial activity characterized by the direct on-premise sale of goods and services to the ultimate consumer, including on-premise manufacturing, processing, servicing, and preparation customarily associated therewith and generally involving stock in trade such as are normally associated with department stores, food markets, and similar establishments, but also including financial institutions, and business and professional offices and services.

Commercial Recreation: Any form of recreation requiring significant levels of organization, buildings of over 144 square feet of ground area, or large numbers of persons. This definition shall not include any facility for the overnight accommodation of guests, or any type of dwelling.

Dead End Road: A road with only one outlet for vehicles.

Deicing Chloride Salt: Any bulk quantities of chloride compounds and other deicing compounds intended for application to roads, including mixtures of sand and chloride compounds in any proportion where the chloride compounds constitute over eight percent of the mixture. Bulk quantity of chloride compounds means any quantity,

but does not include any chloride compounds in a solid form which are packaged in waterproof bags or containers which do not exceed 100 pounds each.

Directional Sign: Off-site sign for the sole purpose of indicating directions to business and other establishments.

Disposal: The burial, discharge, deposit, injection, dumping, spilling, leaking, or release by any other means of a substance to the surface or subsurface of the ground, surface waters, or ground water.

Dwelling: Building or part thereof used as living quarters for one family. The terms dwelling, one-family dwelling, two-family dwelling, or multi-family dwelling shall not include a motel, hotel, boarding house, tourist home, or similar structure, or recreational camping vehicle.

Dwelling, Multi-Family: A building designed for, or occupied by, three or more families living independently of each other.

Dwelling, Single-Family: Building designed for or occupied exclusively by one family.

Dwelling, Two-Family: Building designed for, or occupied by, two families living independently of each other.

Easement: Authorization by a property owner for the use by another, for a specified purpose, of any designated part of his property.

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

Enforcement Officer: Any person appointed by the town board to enforce the provisions of this law.

Essential Facilities: The operation or maintenance by municipal agencies or public utilities of telephone dial equipment centers; electrical or gas substations; water treatment, storage and transmission facilities; pumping stations; wholesale transmission lines and facilities, and similar facilities. The definition of *essential facilities* shall not include power generating facilities of any kind.

Family: One or more persons occupying a dwelling unit and living as a single housekeeping unit.

Fertilizers: any commercially produced mixture generally containing phosphorous, nitrogen, and potassium which is applied to the ground to increase nutrients from plants.

Food Service, Bar, Nightclub: Any establishment, however designated, at which food or alcohol is sold for consumption to patrons seated within an enclosed building or on the premises. This definition shall not include food services at a bed and breakfast provided for overnight guests.

Fuel Distribution Operation: Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels, where 1000 gallons or more of fuel are stored at any one time on the premises.

Gravel Pit: A lot or land or part thereof used for the purpose of extracting stone, sand, gravel, or topsoil.

Hazardous Substance: Any substance listed as hazardous substance in 6 NYCRR Part 597, Hazardous Substance List, or a mixture thereof. In general, a hazardous substance means any substance which: 1) because of its quantity, concentration, or physical, chemical, or infectious characteristics poses a significant hazard to human health or safety if improperly treated, stored, transported, disposed of, or otherwise managed; 2) poses a present or potential hazard to the environment when improperly treated, stored, transported, disposed of, or otherwise managed; 3) because of

its toxicity or concentration within biological chains, presents a demonstrated threat to biological life cycles when released in the environment.

Hazardous Waste: A waste, or combination of wastes, which are identified or listed as hazardous pursuant to 6 NYCRR Part 371, Identification and Listing of Hazardous Wastes. Hazardous waste include but are not limited to petroleum products, organic chemical solvents, heavy metal sludges, acids with a pH less than or equal to 2.0, alkalis with a pH greater than or equal to 12.5, radioactive substances, pathological or infectious wastes, or any material exhibiting the characteristics of ignitability, corrosivity, reactivity, or EP toxicity.

Herbicides: Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed, and those substances defined pursuant to Environmental Conservation Law Section 33-0101.

Home Occupation: An accessory use of a commercial or professional character customarily conducted within the dwelling by the residents thereof. It must be clearly secondary to the primary residential use and must not change the character of the area from residential. Examples include professional offices, homemade product sales, and minor franchise sales.

Hotel/Motel/Lodge/Inn: A facility offering transient lodging accommodations to the general public.

Junkyard: Any junkyard as defined by the County of Lewis Junkyard Law, otherwise known as Lewis County Local Law No. 5 of 1987, as amended.

Land Use Permit: Permit issued by the enforcement officer which indicates the applicant has submitted a satisfactory plan for a use which is in compliance with this law.

Lot: A defined parcel of land considered as a unit, occupied or capable of being occupied by buildings or accessory structures and/or uses.

Lot of Record: A lot for which a valid conveyance has been recorded in the County Clerk's office prior to the effective date of this law (June 29, 1987) and any subsequent amendments.

Lot Frontage: The portion of a lot facing the public road network or an approved private road.

Manufacturing: A commercial activity characterized by the transformation of substances into new products (including the assembly of component parts of manufactured products) such as are normally associated with plants, factories, and mills utilizing power-driven machinery and materials handling equipment.

Manure: Shall mean animal feces and urine.

Mobile Home: Manufactured housing built on a chassis. A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. A mobile home shall not be construed to be a recreational camping vehicle

Mobile Home Park: A parcel or tract of land where two or more mobile homes are parked or where space is reserved for parking two or more mobile homes.

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

Pesticide: Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use a plant regulator, defoliant, or desiccant, and those substances defined pursuant to Environmental Conservation Law Section 17-0105.

Petroleum: Any petroleum-based oil of any kind which is liquid at 20 degrees Celsius under atmospheric pressure and has been refined, re-refined, or otherwise processed for the purpose of: 1) being burned to produce heat or energy; 2) as a motor fuel or lubricant; or 3) in the operation of hydraulic equipment.

Principal Structure: A structure through which the principal use of the lot on which it is located is conducted.

Principal Use: The primary or predominant use of any lot.

Public and Semi-Public Facility: Any one or more of the following uses, including grounds and accessory buildings necessary for their use: religious institutions; public parks, playgrounds, and recreational areas; schools; public libraries; fire, ambulance, and public safety buildings; and public meeting halls and community centers.

Radioactive Material: Any material in any form that emits radiation spontaneously, excluding those radioactive materials or devices containing radioactive materials which are exempt from licensing and regulatory control pursuant to regulations of the New York State Department of Labor or the United States Nuclear Regulatory Commission.

Recreational Camping Vehicle: Shall include motor homes, truck campers, camping trailers, travel trailers, and pop-up trailers used or capable of being used for recreational, travel, and living purposes.

Refuse: Anything putrescible or nonputrescible that is discarded or rejected as useless or worthless.

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

Road, Private Approved: A thoroughfare legally existing on any map of a subdivision filed in the manner provided by law which has not been dedicated and accepted by a municipality for public use.

Road Width: Means width of right-of-way measured at right angles to the center of the road.

Seasonal Use: A use which will not have access to a snow-plowed or winter maintained public road or be provided with vehicular public services such as, but not limited to, emergency services, school busing or postal delivery during the winter snow season.

Septage: The contents of a septic tank, cesspool, or other individual wastewater treatment work which receives domestic sewage wastes.

Septic Absorption Field: A septic absorption field will be measured from any of its parts to the property line. See Section 345 regarding sewerage disposal for reference.

Setback: The distance from lot lines, buildings, rights-of-way, water bodies or other specified boundaries to the nearest wall or corner of any building.

Sludge: The solid, semi-solid, or liquid waste generated from a waste processing facility, but does not include the liquid stream of effluent.

Social Institution: Includes public or private meeting hall, or place of assembly, not operated primarily for profit.

Solar Energy System, Principal: A solar energy system consisting of one or more freestanding ground or roof mounted solar collector devices, solar related equipment and other accessory structures and buildings. These devices include light reflectors, concentrators and heat exchangers, substations, electrical infrastructure, transmission lines and other related structures and facilities. Electricity produced by a principal solar system is primarily for offsite consumption, or exceeds 110% of the on-site use on an annual basis. It is noted that any system with a nameplate generating capacity

of 25 megawatts or more is subject to the requirements, terms and conditions of Article 10 of the New York State Public Service Law.

Solar Energy System, Small: Any solar energy system that produces energy primarily for the purpose of on-site consumption, and not exceeding 110% of the on-site use on an annual basis. Small solar energy systems are also known as “accessory solar energy systems”. A solar collection system consisting of one or more roof and /or ground mounted related equipment, which is intended to primarily reduce on site consumption of utility power. A system is considered a small solar energy system only if it supplies electrical or thermal energy solely for onsite use, except when a property upon which the facility is installed also receives electrical power supplied by a utility company and in such case, excess electrical power may be used by the utility company.

Solar Energy System: Also known as a “solar collector system.” A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage and distribution of solar energy for electricity generation or transfer of stored heat.

Solid Waste: Any garbage, refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded materials including solid, liquid, semi-solid, or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, and from community activities, excluding manure.

Special Use: A use as designated in Section 240 of this law which must be reviewed and approved by the planning board prior to the enforcement officer issuing a land use permit.

Storage Units: Storage units are described as sheds, portable containers and/or garages to shelter objects, seasonal vehicles, personal belongings or consumable products.

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

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

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

Vehicle and Engine Service and Repair: A building, or portion of a building, arranged, intended, or designed to be used for making repairs to motor vehicles, engines or equipment.

Water Body: Any lake, pond, wetland, or streambed.

Watercourse: A visible path through which surface water travels on a regular basis. Drainage areas which contain water only during and immediately after a rainstorm shall not be considered a watercourse.

Wetland: An area(s) of marshes or swamps which have been designated as such by the New York State Department of Environmental Conservation or other agency having jurisdiction. Marshes and swamps that have not been classified by an agency as wetland shall not be treated as a wetland.

Wholesale Business: A commercial facility characterized by the sale of merchandise to retail, manufacturing, institutional, or other wholesale establishment in bulk, including on-premise storage and distribution facilities.

Wind Energy Facility: An electrical generating facility consisting of one or more wind turbines under common ownership or operating control that includes substations, MET towers, cables/wires and other buildings accessory to such facility, whose main purpose is to supply electricity to off-site customers.

ARTICLE 2. DISTRICT REGULATIONS

Section 210. Districts

The town shall be divided into the following land use districts, which are shown on the attached map and schedule which are included in this law by reference.

A District

B District

C District

D District

F District

W Overlay District—Water Supply Protection Overlay District (see Section 360).

Section 220. District Map Interpretation

Where district boundaries on the district map parallel roads, the location of the boundaries shall be interpreted as follows:

1. The "A" district boundary is located 500 feet from the north side of the centerline of Gomer Hill Road, and 500 feet from each side of Carpenter Road.
2. The "B" district boundary is located 1000 feet from the east side of the centerline of NYS Route 26.
3. The "C" district boundary is located 1000 feet from each side of the centerline of NYS Route 12, NYS Route 26, and County Route 36 – Burdicks Crossing Road.
4. The "D" district boundary is located 500 feet from the north side of the centerline of Tabolt Road, and 500 feet from the east side of the centerline of Ward and Brenon Roads.
5. The "W" overlay district boundary surrounds the land which is tributary to a 1,500 foot radial zone around the Village of Turin's public water supply wells. Where the bounds of the Water Supply Protection Overlay Zone, as delineated on the zoning map are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question or their official designee to show that the boundaries differ from those that are indicated.

Section 230. Divided Lots

Where a district boundary divides a lot at the time such boundary is adopted, the requirements of the least restrictive portion of such lot shall extend 100 feet into the more restrictive portion of the lot, provided the lot has frontage on a road in the less restricted district.

Section 240. Land Use Permit Requirements

All uses and structures shall require permits and reviews as indicated on the following chart:

- P = Land use permit required.
- S = Land use permit required following special use review by the planning board.
- NONE = Allowed without land use permit being required.
- = Not allowed in this district.

| LAND USE | A District | B District | C District | D District | F District |
|---------------------------------------|----------------|----------------|----------------|----------------|----------------|
| Accessory Apartment | P | P | P | P | -- |
| Accessory Structures | P | P | P | P | P |
| Agricultural Structure | P | P | P | P | P |
| Bed and Breakfast | S | S | S | S | -- |
| Campground | S | S | S | S | S |
| Cemetery | S (see note 1) | S (see note 1) | S (see note 1) | S (see note 1) | S (see note 1) |
| Commercial and Processing Use | -- | S | S | -- | -- |
| Commercial Recreation | S | S | S | S | S |
| Commercial Establishment | S | S | S | -- | -- |
| Dwelling, Multi-Family | S | S | S | -- | -- |
| Dwelling, Single-Family | P | P | P | P | <u>P</u> |
| Dwelling, Two-Family | P | P | P | -- | -- |
| Educational Facility | S | S | P | -- | -- |
| Essential Facilities | S | S | S | S | S |
| Food Service, Bar, Nightclub | S | S | S | -- | -- |
| Fuel Distribution Operation | -- | S | S | -- | -- |
| Gravel Pit | P | -- | P | P | P |
| Home Occupation | NONE | NONE | NONE | NONE | S |
| Hotel/Motel/Lodge/Inn | -- | S | S | -- | -- |
| Junkyard | S | -- | S | -- | -- |
| Manufacturing | -- | -- | S | -- | -- |
| Mobile Home Park | -- | S | S | -- | -- |
| Public and Semi-Public Facility | -- | S | P | -- | -- |
| Religious Facility | S | S | S | S | -- |
| Social Institution | -- | S | P | -- | -- |
| Solar Energy Facility, Small | P | P | P | P | P |
| Solar Energy Facility, Principal | S | S | S | S | S |
| Telecommunication Tower | S | S | S | S | S |
| Vehicle and Engine Service and Repair | -- | S | S | -- | -- |
| Wholesale Business | -- | -- | S | -- | -- |
| Wind Energy Facilities | S | S | S | S | S |

Note1: Special use review shall be carried out by the town board. See Section 440 of this law.

Section 250. Lot Frontage and Setback

All principal and accessory uses and structures, other than signs, shall meet the following lot frontage and setback requirements for the district in which it is situated:

| | A District | B District | C District | D District | F District |
|------------------------------------------------------|------------|------------|------------|-----------------------------------------------|-----------------------------------------------|
| Lot frontage minimum | 300' | 200' | 200' | 600', or 400' with a 15-acre minimum lot size | 600', or 400' with a 15-acre minimum lot size |
| Setback minimums: | | | | | |
| from centerline of state highways | 75' | 75' | 75' | -- | -- |
| from centerline of other roads | 60' | 60' | 60' | 60' | 60' |
| from side and rear lot lines | 50' | 25' | 25' | 50' | 50' |
| from well to septic absorption field | 100' | 100' | 100' | 100' | 100' |
| from well or septic absorption field to any lot line | 50' | 50' | 50' | 50' | 50' |

Section 260. F District Seasonal Use Classification

1. Purpose: The purpose of this regulation is to provide for the reasonable use of recreational, agricultural and forestry properties which are accessed solely by the seasonal use roads of the F District. This regulation allows for the reasonable use of such lands for seasonal uses without the prohibitively expensive public cost of providing for wheeled vehicular access through the snow-plowing and the winter maintenance of seasonal use roads in the F District.
2. Seasonal use classification is a use classification in addition to the use classifications of Section 240 of this law. Application for seasonal use classification may be made for any use in the F District which intends to have its principal access to a public road within the F District.
3. For a use to be established with its principal access to a public road within the F District, it must, in addition to the allowed use requirement of Section 240 of this law, also be classified as a seasonal use.
4. Where a use has access to both a public road in the F District and to a road within any other land use district, such use shall have its principal access to the road outside of the F District unless classified as a seasonal use.

ARTICLE 3. GENERAL REGULATIONS

Section 305. Signs

1. No signs shall consist of lights which flash or move.

2. No sign shall be higher than the principal building to which it is accessory except when erected on the roof of the building.
3. Advertising signs unrelated to the premises or not serving as a directional sign within five miles of the premises are not permitted.
4. All existing signs at the time this regulation is adopted shall be allowed to remain as long as they are properly maintained and their use remains current.
5. No sign shall project into public right-of-way.
6. One on-site sign is permitted, not to exceed 32 square feet per side, to be illuminated during regular business hours only.
7. Off-site directional signs are permitted, located within five miles of the use to which directions are indicated, not to be illuminated between 12 midnight and 6 a.m. and not to exceed 32 square feet per side.

Section 310. Parking

All uses shall provide adequate off-road parking for all vehicles parked during typical peak use periods. Parking should be designed to eliminate the need to back out onto the public road. Specific minimum standards supplementary to the basic standard cited above are as follows:

1. One parking space for every three seats in a public meeting place.
2. One parking space for every employee at places of employment.
3. One parking space per 250 square feet in a commercial establishment.

Section 315. Basic Performance Standards

No use in any district shall cause unreasonable nuisance adversely affecting adjacent property. This means objectionable noise, smoke, dust, air or water pollution, or any other nuisance must be restrained within property lines.

Section 320. Height of Structures

No structure shall exceed 40 feet in height except agricultural structures, chimneys, communication towers, television and radio masts and antennas, water tanks, spires, and wind towers. Structures exceeding 40 feet in height shall be allowed only upon approval of a special use review, and shall not be approved until the applicant has demonstrated the following:

1. there is a demonstrated public need for the proposed use, and that this need cannot be met by any means other than by exceeding the general height limitations of this law;
2. the height of the structure is the minimum necessary to accomplish its intended purpose;
3. all practical means have been used to minimize any negative aesthetic impacts identified by the planning board;
4. the structure does not significantly impair solar or wind access to other structures or solar or wind energy systems equipment.

Section 325. Solid Waste Disposal

No junk, garbage, or refuse is permitted to be stored unenclosed in any district except where specifically authorized by this law. Solid waste shall either be disposed of on site by burial or be transported to a solid waste facility.

Section 330. Recreational Camping Vehicles

Recreational camping vehicles shall not be occupied on an overnight basis except in the following circumstances:

1. When located in a campground which has been approved pursuant to Section 415 of this law; or
2. When located on the site of an existing single-family dwelling as an accessory use of the dwelling, with the consent of the owner, and is not occupied for more than 14 consecutive days.

Nothing in this section shall be interpreted to prevent a recreational camping vehicle from being parked unoccupied on the premises of an existing single-family dwelling for storage purposes only.

Section 335. Streams, Lakes, Ponds and Wetlands

The following regulations apply to all land within 100 feet of these bodies:

1. **Prohibited activities:** Dumping of waste materials, junk, refuse or anything that would alter the quality of the water, or the character of the area. Construction of any principal or accessory use.
2. **Activities requiring special use approval:** Any alteration of the water body, such as impoundment, diversion or excavation. Alteration of any existing building.

Section 340. Flood Hazard Areas

These areas are shown on the Flood Insurance Rate Map for the Town of Turin published by the Federal Emergency Management Agency. All activity in such areas shall conform to regulations of the local law entitled "Flood Damage Prevention," Local Law No. 2 of 1994, adopted on July 29, 1994, as it may be subsequently amended.

Section 345. Sewage Disposal

On-site sewage disposal systems shall comply with the specifications and standards set forth in Title 10 NYCRR Part 75, Appendix 75-A, entitled *Standards for Individual Sewage Disposal Systems*, and with any additional provisions as provided for by this law.

Section 350. Dwellings per Lot

There shall be no more than one dwelling on a single lot except for the placement of a temporary residence complying with the provisions of Section 920 of this law, or upon special use approval. Such special use approval may be granted where it can be demonstrated that any future subdivision of the lot which would result in the dwellings being located on separate lots, can be accomplished in such a way that the resulting dwellings will have setbacks in accordance with this law, the resulting lots will have dimensions in accordance with this law, and all sewage disposal and wastewater systems will be in accordance with the NYS Sanitary Code.

Section 355. Unapproved Lots

No land use permit or certificate of compliance shall be issued for any use or structure on any lot which has been filed in the office of the county clerk after January 1, 1999, unless such lot is included in a plat which has been approved by the planning board and filed with the office of the county clerk, or was exempt from said law at the time of filing.

Section 360. Water Supply Protection Overlay Zone

1. **Purpose:** The purpose and intent of establishing the Water Supply Protection Overlay Zone is to assist in the preservation of public health, general welfare, and safety of the residents of the town and to facilitate the adequate provision of water through the elimination or prevention of groundwater contamination in the vicinity of wells which supply public drinking water.
2. **Scope and Applicability:** The Water Supply Protection Overlay Zone shall be considered as overlaying other existing zones as shown on the zoning map. Any uses not permitted in the underlying zone shall not

be permitted in the Water Supply Protection Overlay Zone. Any uses permitted in the underlying zone shall be permitted in the Water Supply Protection Overlay Zone, except where the Water Supply Protection Overlay Zone prohibits or imposes greater or additional restrictions and requirements. In any cases where conflicts arise between these requirements and any other existing regulations, the more restrictive regulations shall apply.

3. **Prohibited Uses:** All uses currently permitted in the underlying zone as indicated in Section 240 of this law are permitted in the Water Supply Protection Overlay Zone with the exception of the following uses, which are prohibited:
 - a. Establishment and/or operation of any solid waste management facility or hazardous waste treatment, storage, or disposal facility, including but not limited to: solid waste storage area or facility; transfer station; rail-haul or barge-haul facility; raw waste landfill; sanitary landfill; solid waste landfill; ash landfill; construction and demolition debris landfill; disposal facility; solid waste incinerator; refuse-derived fuel processing facility; pyrolysis facility; construction and debris processing facility; land application facility (including septage sludge spreading); commercial composting facility; surface impoundment; used oil storage, reprocessing, and rerefining facility; recyclables handling and recovery facility; waste tire storage facility; junkyard; salvage yard; impoundment yard; dump; radiological waste facility; pathological or medical waste facility; or hazardous waste treatment, storage, or disposal facility.
 - b. Construction and operation of a disposal system, pint source, or outlet designed to discharge industrial wastes and other wastes except sewage into the land, a watercourse, or a wetland without all required state and federal permits.
 - c. Construction of new sewage treatment systems (including individual household septic systems) within 100 feet of the mean high water mark of a watercourse or wetland unless it precludes the continuation of an existing business or residence.
 - d. Construction of new petroleum or hazardous substance storage tanks requiring state registration within 100 feet of the mean high water mark of a watercourse or wetland unless it precludes the continuation of an existing business or residence.
 - e. Construction of municipal/industrial sewage treatment facilities with disposal of primary or secondary effluent.
 - f. Dumping of snow removed from streets, roads, and parking areas within 100 feet of any watercourse or wetland.
 - g. Outdoor, uncovered stockpiling or bulk storage of unlicensed vehicles, salvage metals, coal, deicing compounds, chemicals, pesticides, and/or fertilizers.
 - h. Extraction or removal of materials from the ground which is not subject to the New York State Mineral Resources Law, except for the purpose of on-site construction.
 - i. Storage for use of hazardous substances or wastes without all required state or federal permits.
 - j. Commercial use, storage, or application of pesticides unless authorization by the New York State Department of Environmental Conservation.

Section 365. Small Solar Energy Facilities

Small solar energy systems shall be allowed in all land use districts subject to these regulations.

1. **Design and Installation:**
 - a. The solar energy system shall comply with all applicable building and construction codes and any local, state or federal law, rule, or regulation.
 - b. The design and installation of small solar energy systems shall conform to the existing industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratory (UL), the American Society for Testing and Materials (ASTM), or other similar certifying organizations, and shall comply with the Uniform Building and Fire Code and with all other applicable fire and safety requirements. The manufacturer's specifications shall be submitted as part of the application.

- c. All exterior electrical and/or plumbing lines must be buried below the surface of the ground and placed in a conduit, except for so called “plug and play” units, provided that they shall meet all requirements of the relevant building and electrical codes, or unless the panels for electrical or thermal are installed on a structure that is either the main structure or a structure attached to the main structure which is receiving the benefit from the panels.
 - d. No portion of a small solar energy system shall be located within any required setback of any property.
- 2. Height restrictions:
 - a. Building or roof mounted small solar energy systems shall not exceed the maximum allowed height in any land use district. For purposes of height measurement, small solar energy systems other than building integrated systems are considered to be mechanical devices and are restricted consistent with other building mounted mechanical devices.
 - b. Ground or pole mounted small solar energy systems shall not exceed 15 feet in height.
- 3. Compliance: The construction and operation of a small solar energy system shall comply with all applicable local, state, and national requirements. These requirements include but are not limited to all safety, construction, electrical, and communications regulations. All buildings and fixtures forming part of the system shall comply with the Uniform Building and Fire Code. No solar energy system shall be constructed without first obtaining a land use permit. Small solar energy systems shall be designed and located in a manner to prevent reflective glare toward any inhabited structures on any adjacent properties as well as any public streets, roads, and highways.
- 4. Roof mounted small solar systems: In addition to the building setback, the collector surface and mounting devices for roof mounted small solar energy systems shall allow a three foot wide access from the roof peak and perimeter of the building on which the system is mounted or built. Panels facing the front yard must be mounted at the same angle as the roof’s surface with a maximum distance of 18 inches between the roof and the highest edge of the system components.
- 5. Ground mounted small solar energy systems: Ground mounted small solar energy systems may not extend within the setback requirements for the zoning district when oriented at minimum design tilt. Ground mounted solar energy system shall be placed at a distance 1.5 times its height from neighboring property lines, public walkways, roads, and highways.
- 6. Plan applications: Plan applications for small solar energy systems shall be accompanied by to scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground mounted system, including the property lines. Applicants must identify a qualified installer or provide proof that the system they propose to install has been designed as a so called “plug and play” system so that the applicant can plug the system into an existing PV circuit.
 - a. Pitched roof mounted small solar systems: For all roof mounted systems, other than a flat roof, the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.
 - b. Flat roof mounted small solar systems: For flat roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building and shall identify the height of the building on the road frontage side, the shortest distance of the system from the road frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.
 - c. No roof mounted small solar system shall be positioned where ice could fall on public or pedestrian walkways.
- 7. Utility notification: The owner of the small solar energy system shall provide written proof that the utility company has been informed of the customer’s intent to install an interconnected customer owned

generator and also that the utility approves of such connection. Off grid systems shall be exempt from this requirement.

8. Any upgrades, modifications, or changes that materially alter the size or placement of an existing solar energy system, other than routine maintenance, shall comply with the provisions of this article and shall require a permit.
9. Fees: The Town Board may establish by resolution fees or a schedule of fees for any application or the administration of this section with regard to small solar energy systems.

Section 370. Accessory Apartments

1. No more than one accessory apartment shall be allowed for each dwelling unit.
2. Each accessory apartment shall be a maximum of 600 square feet.
3. Lot size and dimensions shall conform to the zone in which the dwelling is situated.

ARTICLE 4. STANDARDS FOR SPECIFIC SPECIAL USES

Section 405. Vehicle and Engine Service and Repair

1. Minimum lot frontage -- 250 feet.
2. Minimum lot area -- one acre.
3. Minimum distance between pump islands and any public right-of-way -- 20 feet.
4. No exterior storage of dismantled or inoperative vehicles, vehicle parts or salvage materials shall be allowed.

Section 410. Mobile Home Parks

Mobile home parks shall comply with the requirements of Article 7 of this law.

Section 415. Campgrounds

Campgrounds shall require a special use permit that must be renewed after three years. Campgrounds shall meet the following design and operation standards:

1. The location of campsites and other features shall comply with the setback requirements of the underlying district.
2. Campsites shall have a minimum size of 1,500 square feet.
3. Internal roads shall be privately owned and maintained and shall provide for the safe and convenient movement of vehicles.
4. All internal roads shall be designed, graded, and leveled with a durable surface of either blacktop, gravel, or concrete, so as to license the safe passage of emergency and other vehicles at a speed of 15 miles per hour.
5. One-way internal roads shall be a minimum of 10 feet in width. Two-way internal roads shall be a minimum of 20 feet in width.
6. No mobile homes shall be sited within campgrounds.
7. No accessory structures or storage units shall be sited within campgrounds.
8. Recreational camping vehicles in campgrounds shall not be altered with porches or other additions.
9. No snowmobile trailers shall be stored in campgrounds between May 1 and November 1.
10. Recreational camping vehicles in campgrounds shall be occupied no more than 90 days per calendar year.
11. Any violation of this section shall be corrected within six months of issuance of an order by the Enforcement Officer.

Section 420. Home Occupations

Home occupations shall not cause noise or other disturbance which is a nuisance to neighboring properties. Home occupations shall not detract from the property's primary use as a dwelling.

Section; 425. Junkyards

All junkyards shall comply with the provisions of the County of Lewis Junkyard Law, otherwise known as Lewis County Local Law No. 5 of 1987, as amended. A Lewis County Junkyard License shall be required, issued by the County of Lewis prior to the issuance of a final permit approval pursuant to this law. Final permit approval pursuant to this law shall be contingent upon the junkyard being located in compliance with Section 240 of this law. Nothing in this law shall be construed so as to preempt the enforcement of the County of Lewis Junkyard Law by the County of Lewis in the Town of Turin.

Section 430. Gravel Pits

No person shall mine more than 1,000 tons of material from the earth within one calendar year without applying for a permit from the Department of Environmental Conservation, as required by Title 27 of Article 23 of the Environmental Conservation Law. Access drives within 200 feet of the public road shall be treated to prevent dust. Restored slopes shall have a ratio of 2:1 seeded on completion. Drainage facilities shall minimize erosion and stagnant ponds.

Section 435. Telecommunications Towers

1. **Temporary Special Use Permit Required:** Telecommunications towers shall be sited only upon approval of a temporary special use permit issued for a maximum period of five years. Such permit may be issued or extended upon proof by the owner or operator that 1) the facility is in use as a transmission facility, and 2) that there is a necessity for the tower at the particular location for which application is made. Where such temporary special use permit is not renewed, the tower shall be removed from the premises within 60 days.
2. **Shared Use:** Shared use of existing towers shall be preferred to the construction of new towers. Where such shared use is unavailable, location of antennae on pre-existing structures shall be sought. An applicant shall be required to present an adequate report inventorying existing towers within a reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities and use of other pre-existing structures as an alternative to new construction. An applicant proposing to share use of an existing tower shall be required to document intent from an existing tower owner to share use. In the case of new towers, the applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers and to secure location of antennae on pre-existing structures, as well as documenting capacity for future shared use of the proposed tower. Written requests and responses for shared use shall be provided.
3. **Setbacks:** Towers and antennae shall be setback from all lot lines a distance equal to the height of the tower plus 25 feet. Additional setbacks may be required to contain ice-fall or debris from tower failure on-site, and/or to preserve privacy of adjoining residential and public property. Setbacks shall apply to all tower parts, including guy wire anchors and accessory facilities.
4. **General Aesthetics:** All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment. Accessory structures shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.
5. **Lighting:** Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding tree line and painted gray, green or black below the surrounding tree line unless other standards are required by the FAA. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.

6. **Tower Design:** Whenever feasible, tower construction shall be of a “monopole” design. All towers shall be fitted with anti-climb devices. Towers shall be designed to provide colocation by at least three providers, or designed so that they can be retrofitted to accommodate at least three providers unless such colocation is not feasible as demonstrated by competent engineering or technical proof.
7. **Signs:** Signs shall not be permitted on towers except for signs displaying owner contact information and safety instructions. Such signs shall not exceed five square feet in surface area.
8. **Vegetation:** Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground) shall take place. Clearcutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.
9. **Screening:** Deciduous or nondeciduous tree plantings may be required to screen portions of the tower from nearby residential property as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including roads, the following vegetative screening shall be required. For all towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least ten feet in height within two years of planting shall be provided to effectively screen the tower base and accessory structures. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm.
10. **Fencing:** The base of any tower and anchors on guyed towers shall be surrounded by an opaque security fence eight feet in height. Such fence shall enclose the base of the tower as well as any and all accessory equipment and structures.
11. **Access and Parking:** A road and parking will be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public road standards may be waived in meeting the objectives of this section.
12. **Financial Security for Demolition:** The owner/operator shall provide a demolition bond or other security acceptable to the town for the purpose of removing the facility in case the applicant fails to do so upon the revocation, expiration or the nonrenewal of the special use permit.
13. **Annual Inspection:** Towers shall be inspected annually on behalf of the tower owner/operator by a New York State licensed professional engineer for structural integrity and continued compliance with these regulations. A copy of such inspection report, including findings and conclusions, shall be submitted to the enforcement officer no later than December 31 of each calendar year.
14. **Annual Radiation Emission Certification:** The owner/operator shall submit certification on an annual basis, signed by a New York State licensed professional engineer, verifying that such facility is in compliance with all applicable federal, state and local radio frequency radiation emission standards. Such annual certification shall be delivered to the enforcement officer during the month of December of each calendar year. This requirement shall be considered an implied condition to any site plan, special use permit and/or use variance granted for the facility.
15. **Maintenance:** All facilities shall be maintained in good order and repair. Routine maintenance and repair shall be conducted between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, except for emergency repairs which may be undertaken at any time.

Section 440. Cemeteries

Cemeteries shall be subject to special use reviewed by the town board prior to issuance of a land use permit. Such permit may be issued where the town board has sufficient evidence that: 1) the road access is adequate for the proposed level of use; 2) adequate and appropriate funds for the perpetual maintenance of the cemetery are provided; and 3) there is a sufficient area at the site to operate the proposed cemetery.

Section 445. Wind Power Generating Facilities

1. Setbacks:
 - a. Setback from all adjacent landowner lot lines shall be two times the height from the ground to the tip of the blade at its most extended position.
 - b. Setback from any existing residential structures, not owned by participants in a wind generating project, shall be three times the combined height of the tower and rotor blade length.
2. Information to be submitted:
 - a. Standard drawings of the wind turbine structure, including the tower, base and footings, drawings of access roads, and including an engineering analysis and certification of the tower, showing compliance with the applicable building code.
 - b. Data pertaining to the tower's safety and stability, including safety results from test facilities.
3. Safety:
 - a. Wind energy facilities shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
 - b. Wind turbine towers shall not be climbable up to 15 feet above ground level.
 - c. Any wind energy system found to be unsafe by the local enforcement officer shall be repaired by the owner to meet federal, state and local safety standards or removed within six months. If any wind energy system is not operated for a continuous period for 12 months, the town of Turin will notify the landowner by registered mail and provide 45 days to respond. In such a response, the landowner shall set for the reasons for the operation difficulty and provide a reasonable timetable for corrective action. If the town deems the timetable for corrective action as unreasonable, they must notify the landowner and such landowner shall remove the turbine within 120 days of receipt of notice from the town.
4. Nuisance:
 - a. Audible noise due to wind energy facility operations shall not exceed 50 dBA for any period of time, when measured at any residence, school, hospital, church or public library existing on the date of approval of the wind energy facility.
 - b. The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any wind energy facility.
5. Environmental and Visual:
 - a. Wind turbines shall not be used for displaying any advertising except for reasonable identification or the manufacturer or operator of the wind energy facility.
 - b. Wind turbines shall be painted a non-reflective, non-obtrusive color.
6. Wind Data Gathering Tower: All wind data gathering towers shall be located at least 50 feet plus the height of the structure from road right of way, and side and rear lot lines. A public hearing is required as part of the special use review.
7. Interference communications: It is the responsibility of the owner of the commercial wind power generating facility/wind test towers to avoid placement of the windmills at any location that may interfere with any form of communication, but not limited to television, radio, microwave, and telecommunication. If

interference results from the placement of any related structure, it is the responsibility of the aforementioned owners to resolve this interference at their own expense.

8. Windmill Noise: Unless manufacturer data is provided that demonstrates sound levels produced by WECS are anticipated not to exceed 50 dBA at the property line of the site, the applicant shall provide with the application a noise analysis and report by a professional engineer licensed in the State of New York documenting the potential noise levels associated with the proposed WECS. The report shall document noise levels at the site property lines, and occupied structures (receptors) not on the site within 1500 feet of the turbine. The noise analysis shall provide pre-existing ambient noise levels, combined ambient and turbine sound levels, and include low frequency noise.
9. Shadow Flicker: The applicant shall conduct a study on potential shadow flicker. The study shall identify locations where shadow flicker may be caused by the WECS and the expected duration and intensity of the flicker at these locations. For residences, the zone for predicting shadow coverage shall include the area within a 100 foot radius of the center of the residence. The study shall identify areas where shadow flicker may interfere with residences or highways and detail measures that will be taken to mitigate or eliminate such interference.

Section 450. Principal Solar Energy Facilities

1. Permitted use: A principal solar energy system shall be permitted by special use permit.
2. Height and setback: For purposes of determining compliance with setback and height restriction standards of the underlying district, the total surface area of all ground mounted and freestanding solar collectors, including photovoltaic cells, panels, arrays and solar hot air or water collector devices, shall be considered in the same fashion as impervious, provided, however, that road setbacks shall be double the requirement for the underlying district. Panels mounted on the roof of any building will be subject to the height requirements specified for the underlying district, but in no event shall they stand more than 18 inches above the roof line of the building.
3. Compliance: The construction and operation of a principal solar energy system shall comply with all applicable local, state, and federal requirements, including but not limited to all safety, construction, electrical and communications requirements. All buildings and fixtures forming part of the system shall comply with the Uniform Building and Fire Code. No principal solar energy system shall be constructed without first obtaining a land use permit. Solar energy systems shall be designed and located in a manner to prevent reflective glare toward any inhabited structure on any adjacent properties unless a waiver is received from the affected land owner. Prevention of glare on public streets, roads, and highways shall also be considered in the principal solar energy design. All water runoff shall be contained within the property.
4. Fees: The Town Board may establish by resolution fees or a schedule of fees for any application and for the administration of this article with regard to principal solar energy systems.
5. Site plan review: The application will be subject to site plan review prior to construction, installation or modification.
6. Plans and maps:
All plans and maps shall be prepared and stamped by a professional engineer licensed in the State of New York.
7. Application: The applicant shall provide:
 - a. A site plan showing property lines and physical features, including roads; proposed changes to the landscaping of the site, grading, vegetation clearing and planting, exterior lighting, screening,

vegetation or structures; blueprints or drawings of the proposed system signed by a New York licensed professional engineer showing the proposed layout of the system; electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices; documentation of the major system components to be used.

- b. Name and address of the proposed installer and contact information.
 - c. The Planning Board may waive certain documentary requirements as it deems appropriate.
 - d. The applicant may be required to post a sum to cover customary and reasonable review costs for the Planning Board, including, but not limited to engineering and attorney's fees.
 - e. The applicant must provide proof that it has consulted with the fire department and other emergency services about access to the site and any special concerns. The project shall be deemed to provide proper access for emergency services.
8. Utility notification: The applicant will provide proof that the local utility company has been informed of the system owner or operator's intent to install an interconnected system. Off grid systems shall be exempt from this requirement.
9. Signage: The facility shall have a sign which provides a 24 hour emergency contact telephone number placed at the entrance.
10. Utility connections: Where at all possible, utility connections and transmission lines shall be underground depending on soil conditions, topography, and requirements of the utility company permitting.
11. Safety and environmental:
- a. The system owner or operator shall provide a copy of the project summary, electrical schematic, and site plan upon request to the local fire chief. Upon request, the owner or operator will cooperate with local emergency services to develop an emergency response plan. All means of shutting down the system will be clearly marked. At all times during the life of the project, the owner or operator shall identify a responsible person for inquiries.
 - b. Clearing of natural vegetation shall be limited to what is necessary for the construction and operation of the system or as otherwise governed by applicable law.
 - c. Warning signs with the owner's and operator's contact information shall be placed on the entrance and perimeter of the site. Contact information of the owner and operator shall be placed on file with 911 emergency system. The system may be further screened by landscaping as required by the planning board, to avoid adverse aesthetic impacts.
12. Monitoring and maintenance: The system owner or operator shall maintain all facilities in good condition. Maintenance shall include but not be limited to painting, structural repairs, and integrity of security measures. Site access shall be maintained in an acceptable manner to local fire and emergency services departments.
13. Modifications: All material modifications shall be subject to further site plan review.
14. Abandonment or decommissioning: At the time of decommissioning, (defined as obsolete technology, and/or inoperative for more than 12 consecutive months) the current owner of the principal solar energy system is responsible for all costs associated, but not limited to the removal of the solar energy system, any associated structures, etc., in addition to returning the affected property to its previous undisturbed condition including, but not limited to seeding of exposed soils. At the time of obtaining a special permit, the applicant must also provide a financial security bond or other security acceptable to the Town of Turin Board for removal of the principal solar energy systems and property restoration, with the Town of Turin Board as the assignee, in an amount approved by the Town of Turin Board, but not less than \$20,000. On an annual basis, the financial security bond or other security shall be reviewed and renewed. The Town of Turin Board may adjust the required amount of the financial security bond to adequately cover increases

in the cost of removal of the principal solar energy systems and property restoration and road repair removal and/or replacement as the result of such activity.

15. Financial surety: Applicants shall provide prior to approval a form of surety through escrow account, bond, or otherwise in an amount sufficient to pay for removal of the installation and site remediation as set forth above in an amount and form determined to be reasonable by the Planning Board.

ARTICLE 5. PLANNED DEVELOPMENT DISTRICTS

Section 510. General

Planned Development districts may be established in the town and designated at specific locations on the Land Use District Map with "PD" designation through a map amendment following local law amendment procedures.

Section 520. Purpose

The purpose of establishing such districts is to allow for large-scale unified development of recreational, residential, and commercial mixed uses that would not be permitted under other district regulations. It is the intent of this Planned Development district to provide flexible land use and design regulations so that areas may be developed within the town that incorporate a variety of residential and non-residential uses, and contain both individual building sites and common property which are planned and developed as a unit. This article encourages innovations in development so that the growing demands for recreational, commercial, and residential needs may be met by greater variety in type, design, and siting of dwellings and by the more efficient use of land. Planned developments do not require a mix of residential and non-residential uses to be considered for Planned Development district status. While the standard districting function is appropriate for the regulation of land use in some areas, these controls represent a type of regulatory strictness which may be inappropriate to the innovative techniques of land development contained in the Planned Development district concept. A rigid set of space requirements along with use specifications would frustrate the application of this concept. Thus, where PD techniques are deemed appropriate through the redesignation of land to a Planned Development district by the town board, the use and dimensional specifications found elsewhere in this law are herein replaced by the general requirements below.

Section 530. General Requirements

Following are a list of the requirements that a proposal must meet to be considered for PD status:

1. **Minimum area:** The district must comprise at least five acres of contiguous land.
2. **Ownership:** The tract of land for a project may be owned, leased or controlled either by a single person or corporation, or by a group of individuals or corporations. An application must be filed by the owner or jointly by owners of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners.
3. **Required Buffer:** Where a planned development proposes multiple family dwellings and/or commercial uses adjacent to residential areas, the planning board shall require a minimum 50 foot vegetative buffer area. Plant material shall be six to eight feet in height when planted, and shall be spaced to form an opaque screen either in a single row or in multiple rows with alternate spacing. Berms may be substituted for plant material screening upon approval of the planning board.
4. **Permitted Uses:** Following are descriptions of residential and non-residential uses permitted in the PD district. These uses may be mixed, separated, or the development may accommodate only one type of use (i.e., residential or non-residential). Residences may be of any variety of types including single family dwellings, two family dwellings and multiple dwellings. Non-residential uses shall include small retail business operations, community centers, public and semi-public facilities, outdoor recreation, restaurants, home occupations, accessory uses/structures. All such uses shall

be in keeping with the residential character of the adjacent areas. No industrial uses shall be permitted.

5. **Common property in the PD:** Common property is not required to be considered for PD status; however, it is often characteristic of such proposals. Common property in a PD is a parcel or parcels of land, with or without the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites. When common property exists, the ownership of such common property may be either public or private. When common property exists in private ownership, satisfactory arrangements must be presented for the improvement, operation and maintenance of such common property and facilities, including private road, drives, service and parking areas, and recreational and open space areas.

Section 540. Planned Development District Procedure

The following are the procedural steps that shall be followed when applying for a PD district:

1. Application for establishment of a PD district shall be made to the town board along with the appropriate filing fee. The town board shall forward the application to the planning board within seven days of receipt.
2. The application shall contain all requirements necessary for a special use approval. The planning board shall review the application for sufficiency.
3. Within 45 days of the acceptance of a completed application by the planning board, the planning board shall report its recommendations to the town board. The recommendations shall address the following findings:
 - a. The uses proposed will not be detrimental to present and potential surrounding uses.
 - b. Land surrounding the proposed development is compatible in use and can be planned in coordination with the proposed development.
 - c. The proposed change is in conformance with the general intent of the comprehensive plan for the community.
 - d. Existing and proposed roads are suitable and adequate to carry anticipated traffic within and around the proposed development.
 - e. Existing and proposed utility services are adequate for the proposed development.
 - f. Each phase of the proposed development, as it is proposed to be completed, contains the required parking, landscaping, and utilities necessary for creating and sustaining a desirable and stable environment.
4. Within 45 days of the planning board report, the town board shall hold a public hearing on the proposal to redistrict.
5. Within 45 days of the public hearing, the town board shall take action to approve, approve with conditions, or disapprove the redistricting proposal.
6. If the town board takes action to approve the proposed redistricting, and after the appropriate PD district has been placed on the Land Use District map and filed in the town clerk's office, the applicant must within six months submit application for a special use approval to the planning board.
7. If such an amendment is enacted, the permitted development must be confined to the specific designated area and adhere to the approved development plan and program. Anything different from this constitutes a violation of this law.
8. In order to exceed any of the above time frames for adoption of a PD district there must be agreement by both the applicant and the town board.

ARTICLE 6. FINANCIAL GUARANTEES FOR PUBLIC IMPROVEMENTS

Section 610. Required Public Improvements

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

Section 620. Required Financial Security

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

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

Section 630. Review of Proposed Financial Security

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

Section 640. Schedule of Improvements

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

Section 650. Staged Refunding of Financial Guarantees

At such times as the applicant wishes to have guarantee funds released in consideration of work performed and accepted, the applicant shall cause to be prepared an accurate statement of the work performed and accepted as of a date certain. This statement shall use the same item structure as was employed in the written agreement itemizing the required public improvements. The applicant, after preparing such statement, shall submit it for review, approval, and signature by an engineer acting on behalf of the town, by the appropriate municipal inspectors, and by the town fiscal officer. If the statement is approved by the Town fiscal officer, the statement shall be forwarded promptly to the town clerk, together with a recommendation that the amount approved on said statement be released from the financial guarantee provided by the applicant. Where the financial guarantee provided by the applicant makes staged refunding possible, the town clerk will then direct in writing to the surety company of financial institution having custody of the guarantee funds to release the approved amount of those funds to the applicant.

Section 660. Acceptance of Required Public Improvements

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

Section 670. Required Maintenance Guarantee

Upon acceptance of the required public improvements, a maintenance guarantee shall be established. All such guarantees shall be for 10% of the financial guarantee originally required of the applicant. The applicant may provide a maintenance guarantee by one of the methods provided for in Section 620 above, but no maintenance bond shall be for less than \$5,000 (face value). All maintenance guarantees required by this article shall commence immediately upon acceptance of the required public improvements by the municipality and shall extend for two years therefrom or for two years from the June first next succeeding the acceptance of the required public improvements, whichever period is longer.

ARTICLE 7. MOBILE HOME PARKS

Section 710. Park Location and Conditions

The site of a proposed mobile home park:

1. shall be located where orderly development of a mobile home park can be undertaken in harmony with development of the surrounding area in terms of traffic generation, ease and safety of vehicular access to and circulation within the park, safety of pedestrian movement, location of structures, adequacy of off-street parking, placement and sizing of sewage treatment and water supply systems and other utilities, safety of fuel storage and supply, provision of open space, recreation facilities or areas, delivery of services and adequacy of landscaping and buffering;
2. shall have generally level to gently rolling topography over an area of sufficient size to allow development of the mobile home park without significant alteration or disturbance of existing

- natural amenities or features such as stands of mature trees, stream courses, shorelines, wetlands or bedrock outcroppings; and
3. shall be essentially free from adverse, unsafe or unhealthful conditions including but not limited to flooding, ponding, poor drainage, erosion, slumping or other soil instability, breeding areas for insects or rodents, smoke, noise, odors, heat, glare, or toxic or volatile substances.

Section 720. Site Requirements

1. **Mobile Home Site:** Each mobile home park shall be divided (exclusive of internal roads, open space or common areas) and marked-off into mobile home sites numbered consecutively, the number being conspicuously posted on each lot with such number to correspond to the lot shown on the site plan submitted. All sites shall be a minimum of 5,000 square feet.
2. **Setbacks and Spacing:**
 - a. All mobile homes, including expansions, extensions or other additions thereto, patios, porches or garages and all other structures in a mobile home park shall satisfy the following setback requirements. A detached structure accessory to and located on the same site with an individual mobile home shall be considered part of the mobile home for the purpose of spacing requirements.
 - (1) Minimum of 150 feet from the road line of any public road.
 - (2) Minimum of 30 feet from the center line of any roadway internal to the mobile home park.
 - (3) All structures shall be set back a minimum of ten feet from all site lines.
 - b. No mobile home site, internal roadway, parking lot, recreation area or storage facility for fuels, supplies or equipment shall be located within 30 feet of adjoining property external to the mobile home park.

Section 730. Park Design Requirements

1. **Access:** Each mobile home park shall provide for safe, legal means of access from one or more public roads as follows:
 - a. access roads shall meet the public roads at right angles and at compatible grades;
 - b. entrances shall be located directly opposite or at least 200 feet from the nearest intersection of public roads, if any, and at least 150 feet from any other entrances to the mobile home park, if any;
 - c. entrances shall have sufficient width to allow reasonable turning movements of vehicles with mobile homes attached and of service or delivery vehicles;
 - d. entrances shall be located to allow safe line-of-sight distances to and from their points of intersection with the public road;
 - e. at least one common entrance and access road shall be required to serve any mobile home park having three or more mobile homes;
 - f. at least two independent entrances and access roads shall be required to serve any mobile home park having 20 or more mobile homes; and
 - g. access roads connecting mobile home park interior roads with the public road shall meet town road standards.
2. **Internal Roads:**
 - a. Internal roads shall be privately owned and maintained and shall provide for the safe and convenient movement of vehicles, with or without mobile homes attached.
 - b. All mobile home sites shall face on and be serviced by such internal roads.

- c. All roads shall be paved with a durable surface of either blacktop, gravel, or concrete and shall be designed, graded and leveled as to permit the safe passage of emergency and other vehicles at a speed of 15 miles per hour.
 - d. Straight, uniform gridiron road patterns should be avoided unless they can be relieved by mobile home clustering, landscaping and an open space system.
 - e. Cul-de-sacs shall be provided in lieu of closed end roads with a turn around having an outside roadway character of at least 90 feet.
 - f. All internal roads shall have a minimum 30 foot right-of-way, 16 feet of which must be paved.
3. **Recreational Areas and Open Space:** Easily accessible and usable open spaces shall be provided in all mobile home parks. Such open space shall have a total area equal to at least 15% of the gross land area of the park and shall be fully maintained by the park owner. Part or all of such space shall be in the form of developed recreation areas to be usable for active recreation purposes.
 4. **Walkways:** A four foot wide hard surfaced pedestrian walkway shall be provided along and at least five feet from each access road between the entrance to the public highway and either a) the first mobile home unit or b) such location within the mobile home park as may be required by the planning board to assure pedestrian safety.
 5. **Water Supply and Sewage Disposal Systems:** Shall be designed and constructed in compliance with all New York State Health Department and Environmental Conservation Department requirements and approvals. Proof of such compliance must be submitted prior to final approval.
 6. **Garbage and Refuse:** All receptacles, including cans and dumpsters, shall be kept in a sanitary condition at all times. It shall be the responsibility of the park owner to ensure that garbage and rubbish shall be collected and properly disposed of outside of the mobile home park. Exterior property areas shall be maintained free from organic and inorganic material that might become a health, accident or fire hazard.
 7. **Fuel Supply and Storage:**
 - a. General Requirements: All fuel oil supply systems, provided for mobile homes, service buildings and other structures shall be installed and maintained in conformity with the rules and regulations of the authority having jurisdiction when provided.
 - b. Specific Requirements:
 - (1) All fuel oil tanks shall be placed at rear of mobile home and not located less than five feet from any exit.
 - (2) It is recommended that a central fuel supply system be provided.
 - (3) Supports or standards for fuel storage tanks are to be of a non-combustible material.
 - c. Liquefied Gas:
 - (1) Such system shall be provided with safety devices to relieve excessive pressures and shall be arranged so that the discharge terminates at a safe location.
 - (2) Systems shall have at least one accessible means for shutting off gas. This means shall be located outside of individual mobile home.
 - (3) All liquid propane gas piping shall be well supported and protected against mechanical injury.
 - (4) Storage tanks shall not be less than 100 pounds and must be located at rear of mobile home and no closer than five feet from any exit.

8. **Park Office:** Owner or manager of a park shall maintain an office in the immediate vicinity of the park.
9. **Storage facilities:** Each mobile home park shall provide 125 cubic feet of secure storage space for each individual mobile home. Such facilities shall be located either on the individual mobile home site or be a permanent structure within the mobile home park which is easily accessible to the park residents at all times.
10. **Service Buildings:** Service buildings, if provided, housing sanitation facilities and/or laundry shall be permanent structures complying with all applicable ordinances and statutes regulating buildings, electrical installations and plumbing and sanitation systems. All service buildings and the grounds of the mobile home park shall be well lighted and maintained in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or constitute a nuisance.
11. **Fire Protection and Control:** No open fires shall be permitted any place within the mobile home park with the exception of outdoor grills used for the preparation of foods.
12. **Screening:** The entire mobile home park shall be screened from the view of adjacent properties and roadways by the planting of shrubbery. Such shrubbery shall be of a species suitable to the Planning Board and shall mature to at least an eight foot height.

Section 740. Responsibilities of Park Operators and Park Occupants

1. The person to whom a permit for a mobile home park is issued shall operate the park in compliance with the standards set forth in this local law and shall provide adequate supervision to maintain the park, its common grounds, streets, facilities and equipment in good repair and in a clean and sanitary condition.
2. The park operator shall place or supervise the placement of each mobile home on its mobile home pad which includes ensuring its stability by securing all tie-downs and installing all utility connections.
3. The park operator shall maintain a register containing the names of all occupants and the make, year, and serial number, if any, of each mobile home. Such register shall be available to any authorized person inspecting the park.
4. The park occupant shall be responsible for the maintenance of his mobile home and any appurtenances thereto, and shall keep all yard space on his site in a neat and sanitary condition.
5. A list of operator and occupant responsibilities shall be posted in the park office or made available upon request.
6. Travel trailers shall not be parked, whether permanently or temporarily, in any mobile home park.

ARTICLE 8. NONCONFORMITIES

Section 810. Intent

The intent of this article is to recognize lots, structures and uses of land and structures which legally existed prior to the enactment or subsequent amendment of this law which would be prohibited or unreasonably restricted by the requirements herein. All rights of nonconformity shall continue regardless of the transfer of ownership of nonconforming lots, structures or uses.

Section 820. Lots

1. A nonconforming lot of record may be improved with structures or utilized for permitted uses or activities, provided the provisions of Section 345 of this law can be met.
2. Where two or more adjoining nonconforming lots exist in the same ownership, such lots shall be considered as combined to meet requirements contained herein.

Section 830. Structures

1. Any structure which is nonconforming as to use, setbacks, road frontage, height or any other requirement of this law, which is damaged or destroyed by fire or other hazard, may be repaired, restored or reconstructed provided that such work is undertaken within one year of the date on which the damage or destruction occurred. No such work shall increase the nonconformity of the structure.
2. A nonconforming structure may not be structurally altered during its life to an extent greater than half its present size. In no case shall such expansion increase the nonconformity although lateral additions are permitted.

Section 840. Uses

1. Whenever a nonconforming use has been discontinued for a period of one year, such use shall be considered abandoned and shall not thereafter be re-established. This provision may be waived where transfer of ownership is delayed in a probate case.
2. A nonconforming use may not be changed to create another nonconforming use unless reviewed and approved by the board of appeals.
3. A special use approval shall be required for any alteration or reconstruction which is on the premises of a nonconforming multi-family residential or nonresidential use, or any nonconforming use in the Water Supply Protection Overlay Zone.

ARTICLE 9. ADMINISTRATION

Section 905. Land Use Permits Required

No land use activity as listed below, other than those specifically exempted in Section 907 of this law, shall be carried out until a land use permit has been issued by the enforcement officer stating that the proposed building, structure, use of land or development activity complies with the requirements of this law:

1. Erection, re-erection or movement of a building or structure;
2. Change of the external structural dimensions of a building or structure;
3. Change of use of land, buildings or structures through the establishment of a new use, or through the expansion or enlargement of an existing use;
4. The resumption of any use which has been discontinued for a period of 12 months or longer;
5. Establishment or change in dimensions of a parking area for nonresidential or multi-family residential use;
6. Placement of a sign as regulated in Section 305 of this law;
7. Change in contours of land;
8. Construction, replacement or major modification of any on-site sewage disposal system;
9. Construction of below-ground pools, and the placement of above ground pools which are located for one year or longer.

Section 907. Land Use Permit Exceptions

A land use permit shall not be required for the following development activities, and such activities shall not be subject to the requirements of this law:

1. Accessory structures with less than 144 square feet of ground coverage, unless over 20 feet in height;
2. Interior structural alterations or routine maintenance and improvement that does not expand the exterior dimensions of the structure (e.g., roofing window replacement, siding replacement, etc.);
3. Minor accessory structures such as posts, sidewalks, driveways, flagpoles, playground equipment, etc.;
4. Family day care homes and group family day care homes;
5. Nonstructural agriculture and forest uses.

Section 910. Land Use Permit Procedures

1. Permit applications shall be filed with the town clerk, who shall refer them to the enforcement officer.
2. Two copies of a plot plan drawn to scale shall be submitted with all applications for land use permits. The plot plan shall show the dimensions of the lot; location of all buildings; locations, dimensions, and capacities of sanitary and water facilities; percolation test results; access to and location of public highways; the location of right-of-way lines of State highways and State highway drainage easements, and; a brief description of the proposed use. The enforcement officer shall approve the plot plan, return one copy to the applicant if all requirements of this law are met, and issue a land use permit. The permit shall be posted in plain view of the road at the site.
3. The enforcement officer shall, upon arrangement with the applicant and following completion of all work, make a site inspection. When the changes are confirmed as being in agreement with the plot plans previously approved, the enforcement officer shall then issue a certificate of compliance and file one copy with the town clerk and deliver or mail one copy to the applicant within five business days.
4. Any use or structure for which a land use permit has been issued that has not substantially commenced within one year of the issuance of the permit shall require a new application, review and approval.

Section 915. Special Use Approval Procedures

1. Applications for special uses shall be filed with the town clerk, who shall refer them to the enforcement officer. The enforcement officer shall review all applications for general compliance with this law, and shall refer all applications found to be in compliance with this law and requiring special use review to the planning board.
2. The planning board shall review all applications for compliance with this law, and shall approve, approve with modifications, or disapprove the applications. Upon approval or approval with modifications of an application, the planning board shall refer the application to the enforcement officer for the issuance of a land use permit.
3. The enforcement officer shall, upon arrangement with the applicant and following completion of all work, make a site inspection. When the changes are confirmed as being in agreement with the site plans and conditions previously approved by the planning board, the enforcement officer shall then issue a certificate of compliance and file one copy with the town clerk and deliver or mail one copy to the applicant within five business days.

4. Any use or structure for which a special use approval has been granted that has not substantially commenced within one year of the issuance of the land use permit shall require a new application, review and approval.

Section 920. Temporary Land Use Permits

1. Temporary land use permits may be issued for the following uses:
 - a. for one interim dwelling on an individual lot during the construction of a single-family or two family dwelling on such lot;
 - b. for one emergency dwelling on an individual lot, when the need for such dwelling resulted from the loss by flood, fire, or other disaster of an existing dwelling within the town;
 - c. upon proof of special necessity for an agricultural use where additional dwellings are needed for farm employees or family members, the planning board may grant a special use approval for the installation of a maximum of two mobile homes to be placed on the same individual lot as an existing conventional single-family dwelling conditioned upon the following: 1) the mobile homes shall not be occupied by persons other than employee or family members, and 2) the mobile homes shall be removed within six months from the date when the special necessity ceases.
 - d. for temporary uses and structures incidental to a construction project.
2. Temporary land use permits may be issued for a period not to exceed one year. In cases of special necessity for an agricultural use as provided for in subsection c. above, temporary land use permits may be issued for a period not to exceed three years.
3. All temporary land use permits shall be conditioned upon agreement by the applicant to remove any nonconforming uses or structures upon expiration of the permit.

Section 925. Fees

Permit fees shall be established by town board resolution. The cost of any additional site inspections, tests, or professional consulting needed to comply with the regulations of this law shall be paid by the applicant. The need for such information shall be determined by the enforcement officer.

Section 930. Certificate of Compliance

No use or structure requiring a land use permit shall be occupied, used, or changed in use until a certificate of compliance has been issued by the enforcement officer stating that the use or structure complies with the provisions of this law.

Section 935. Enforcement Officer

This law shall be enforced by the enforcement officer, who shall be appointed by the town board. The enforcement officer shall issue permits only in strict compliance with this law, and shall have no authority to vary the requirements unless so directed by the board of appeals. The enforcement officer shall be empowered to make site inspections as necessary to assure compliance with this law. It shall be the mutual responsibility of permit applicants and the enforcement officer to arrange for inspection of premises prior to permit issuance. The duties of the enforcement officer shall be to:

1. Approve and disapprove land use permits, temporary land use permits and certificates of compliance;
2. Scale and interpret district boundaries on the district map;
3. Refer appropriate matters to the board of appeals, planning board, or town board;

4. Revoke land use permits, temporary land use permits or certificates of compliance where there is false, misleading or insufficient information or where the applicant has varied from the terms of the application;
5. Investigate violations, issue stop work orders and appearance tickets, and refer violations to the town justice or the town board;
6. Report at regular town board meetings the number of land use permits and certificates of compliance issued.

Section 940. Board of Appeals

1. The board of appeals shall consist of five members as set forth in Section 267 of the Town Law, or in the alternative the town board may enter into an agreement pursuant to Article 5-G of the General Municipal Law and Section 284 of the Town Law to establish a cooperative board of appeals. In the event of a cooperative board of appeals, membership shall be as per the contractual agreement and may otherwise vary from provisions of Section 267 of the Town Law as may be set forth in that agreement.
2. The powers of the board of appeals shall be to interpret this law and to grant area variances and use variance in accordance with the standards set forth in Section 267-b of the Town Law and as may be otherwise provided by law.
3. The procedure before the board of appeals shall be in accordance with Section 267-a of the Town Law except as may be specifically modified by intermunicipal agreement should the town elect to enter into a cooperative board of appeals, in which event such procedures shall be strictly governed by the intermunicipal agreement.
4. This local law specifically supersedes those provisions of Section 267 of the Town Law requiring that there be three or five members of the board of appeals, that the terms be staggered, that the town board select the chairman, and the voting power of members of the board of appeals in the event that the town should enter into an intermunicipal agreement pursuant to Section 284 of the Town Law and Article 5-G of the General Municipal Law in which event the intermunicipal agreement shall govern those factors.

ARTICLE 10. SPECIAL USE REVIEW AND APPROVAL

Section 1005. Authority

The planning board is hereby authorized to review and approve, approve with modifications, or disapprove special uses pursuant to Town Law Section 274-b and in accordance with the standards and procedures set forth in this law.

Section 1010. Applicability

1. All uses designated as requiring special use review pursuant to Section 240 of this law, shall have an application approved by the planning board prior to the issuance of a land use permit or a certificate of compliance by the enforcement officer.
2. A full special use review shall not be required for minor amendments to plans or minor changes to uses previously approved pursuant to this article, as determined by the planning board. Minor amendments to plans or minor changes to uses shall be review pursuant to the provisions of Town Law Section 274-a, site plan review, and shall follow the procedures of this article except that a public hearing shall not be mandatory. The planning board may hold a public hearing at their discretion.

Section 1015. General Review Criteria

The planning board shall require that all applications comply with the following general review criteria:

1. that the site is designed in the interests of the public health, safety, welfare, and comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area;
2. that the site is designed so as to be in harmony with the comprehensive plan for the community;
3. that parking areas are adequate for the intended level of use, and arranged and screened so as to minimize negative impacts on adjacent properties;
4. that access to the site is safe and convenient and relates in an appropriate way to both the internal circulation on the site as well as the town road system;
5. that the internal circulation of the site is arranged so as to minimize impacts on the town road system;
6. that the site is suitably landscaped, and appropriately screened from adjacent properties and the road so as to protect the visual character of the area and to minimize negative impacts on adjacent properties and the neighborhood;
7. that pedestrian ways are safe and adequate, and are properly integrated with the pedestrian ways of adjacent properties and the neighborhood;
8. that any activities on the site which are incompatible with adjacent properties are suitably buffered so as to minimize negative impacts on such adjacent properties;
9. that signs, site lighting, and the locations of all buildings and structures are in keeping with the character of the neighborhood;
10. that any changes to existing drainage patterns, or increased drainage due to development activity have no negative impacts on adjacent property;
11. that proposed water supply and sewage disposal facilities are safe and adequate;
12. that development activity complies with all other standards and requirements of this law.

Section 1020. Application

The enforcement officer shall refer any application for a land use permit which requires a special use approval to the planning board. An application for a special use approval shall be filed with the planning board, and the appropriate fee as determined by the fee schedule adopted by town board resolution shall be paid to the town clerk. Three copies of the application and site plans shall be provided which shall include the following:

1. Name and address of applicant and owner, if different, and of the person responsible for preparation of drawings;
2. Date, north point, written and graphic scale
3. Boundaries of the site plotted to scale, including distances, bearings, and areas;
4. Locator map showing the site in relationship to the town;
5. Location and ownership of all adjacent lands as shown on the latest tax records;
6. Location of all land use district boundaries;
7. Location, name, jurisdiction and width of adjacent roads;
8. Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use or adjoining the property;
9. Complete outline of existing or proposed deed restrictions or covenants applying to the property;
10. Existing hydrologic features together with a grading and drainage plan showing existing and proposed contours at a maximum of five foot intervals;
11. Location, proposed use, and height and dimensions of all buildings including the number and distribution by type of all proposed dwelling units, and the designation of the amount of gross floor area and gross leasable area proposed for retail sales and services, office and other commercial or industrial activities;
12. Location and design of all parking and loading areas, access and egress drives, fire lanes and emergency access areas;
13. Provision for pedestrian access, including public and private sidewalks;

14. Location of outdoor storage;
15. Location and design of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences;
16. Description of the method of securing water supply and disposing of sewage, and the location and design of such facilities;
17. Location and design of all energy distribution and storage facilities, including oil, gas, electrical, and solar energy;
18. Location, size and design of all proposed signs;
19. Location and design of outdoor lighting facilities;
20. General landscaping plan and planting schedule, including the location and proposed development of all buffer areas;
21. Erosion and sediment control plan conforming to the standards and practices contained in the USDA Soil Conservation Service Engineering Field Manual (EFM) and New York Guidelines for Urban Erosion and Sediment Control, or other erosion and sediment control manual recognized by the planning board;
22. An agricultural data statement pursuant to Town Law Section 283-a, when applicable;
23. A statement of the nature and extent of the interest of any state employee, or officer or employee of the town in the applicant pursuant to General Municipal Law Section 809, when applicable;
24. An environmental assessment form (EAF) and, when applicable, a draft environmental impact statement (EIS) pursuant to 6 NYCRR Part 617;
25. Other elements integral to the proposed development as considered necessary by the planning board.

Section 1025. Waiver of Submission Requirements

The planning board may waive any of the submission requirements above where it deems that the information is either not applicable or is unnecessary to a particular review.

Section 1030. Environmental Impact Review

The planning board shall be responsible for the completion of an environmental assessment form (EAF) for each application. The planning board shall be responsible for compliance with 6 NYCRR Part 617 (State Environmental Quality Review Act regulations) in cooperation with other involved agencies in the review of any application.

Section 1035. Review

Upon a determination by the planning board that the application is complete, the board shall review the site plan taking into consideration the objectives as outlined in Section 1015 above and all other requirements of this law.

Section 1040. Area Variance

During the course of the review, should the planning board determine that an approval may not be feasible without the granting of an area variance as defined by Town Law Section 267-a, the planning board may refer the application to the board of appeals for the consideration of such variance.

Section 1045. Public Hearing

The planning board shall conduct a public hearing. Such public hearing shall be conducted within 62 days of the receipt of the completed application and shall be advertised at least five days before the hearing in a newspaper in general circulation in the town. A notice of the hearing shall be mailed to the applicant at least 10 days before the hearing.

Section 1050. Referral to County Planning Board

At least 10 days before the hearing, the planning board shall refer all matters that fall within those areas specified under General Municipal Law Section 239-l and -m to the county planning board. This shall include any use that falls within 250 feet of the following: the boundary of the town or any village within the town; a state or county park or recreation area; a state or county highway or expressway; a state or county owned drainage channel; state or county land where a public building or institution is located; or a farm operation in an agricultural district. If the county planning board does not respond within 30 days from the time it received a full statement on the referral matter, then the planning board may act without such report.

Section 1055. Final Action

1. The planning board shall take action within 62 days of the public hearing. The time within which the planning board must render its decision may be extended upon mutual consent of the applicant and the planning board. The action of the planning board shall be in the form of a written statement to the applicant stating whether or not the application is approved, approved with modifications, or disapproved. In its approval, the planning board shall have the authority to impose such reasonable conditions and restrictions on the issuance of a land use permit for the application as are directly related to and incidental to the application. The decision of the planning board shall be filed in the office of the town clerk within five days of the decision, and a copy mailed to the applicant.
2. If the application is approved, and upon payment by the applicant of all fees and reimbursable costs due the town, the planning board shall endorse its approval on a copy of the application and site plans and immediately forward to the enforcement officer for the issuance of a land use permit.
3. If the application is approved with modifications, the planning board shall specify in the statement all modifications to be made. Upon payment by the applicant of all fees and reimbursable costs due to town, and upon approval of the modified application and site plans, the planning board shall endorse its approval on a copy of the application and site plans and immediately forward to the enforcement officer for the issuance of a land use permit.
4. If the application is disapproved, the statement shall contain the reasons for such findings.

Section 1060. Report to County Planning Board

Within 30 days of final action on any matter referred to the county planning board pursuant to Section 1050 above, the planning board shall file a report of the final action it has taken with the county planning board.

ARTICLE 11. MISCELLANEOUS

Section 1110. Violations and Penalties

1. Whenever a violation of this law occurs any person may file a complaint in regard thereto. All such complaints shall be in writing and shall be filed with the enforcement officer who shall properly record and immediately investigate such complaint. If the complaint is found to be valid, the enforcement officer shall issue a stop work order requiring all work to cease until the violation is corrected. If the violation is not corrected within the specified time, the enforcement officer shall take action to compel compliance.
2. Pursuant to Criminal Procedure Law Section 150.20 (3), the enforcement officer is hereby authorized to issue an appearance ticket to any person causing a violation of this law, and shall cause such person to appear before the town justice.

3. Pursuant to Municipal Home Rule Law Section 10 and Town Law Section 268, any person, firm, or corporation who commits an offense against, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this law shall, upon conviction, be deemed guilty of a violation and subject to fine and/or imprisonment. Any violation of this law is an offense punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than \$750 nor more than \$1000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
4. The town board may maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this law.

Section 1120. Interpretation

The provisions of this law shall supersede local laws, ordinances, codes, or regulations to the extent that they are inconsistent with the provisions of this law. However, nothing herein shall prevent the adoption and enforcement of a law, ordinance, code or regulations which is stricter or establishes a higher standard than those provided in this law; such high provisions shall take precedence over these regulations.

Section 1130. Partial Invalidity

If a term, part, provision, section or paragraph of this law shall be held unconstitutional, invalid or ineffective, in whole or in part, such determination shall not invalidate the remaining terms, parts, provisions, sections or paragraphs.

Section 1140. Amendments

The town board may amend the provisions of this law pursuant to Town Law Section 265 and Municipal Home Rule Law Article 3 after public notice, public hearing, compliance with the State Environmental Quality Review Act regulations (6 NYCRR Part 617), and following appropriate referral to the county planning board pursuant to General Municipal Law Section 239-m.

Section 1150. Effective Date

This law shall be effective upon filing with the Secretary of State.