

# **TOWN OF WEST TURIN ZONING LAW**

**ADOPTED DECEMBER 11, 2023**

## **REVISED**

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August 4, 1999

May 12, 2003

August 4, 2020

November 17, 2020

October 11, 2021

July 11, 2022

December 11, 2023



## **ARTICLE 1. INTRODUCTION**

### **Section 110. Title**

This law shall be known as the “The Town of West Turin Zoning 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.

### **Section 130. Previous Regulations**

This law shall replace and supersede Part I, Part III and Part V of the Town of West 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 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.

**Addition:** Change of the exterior structural dimensions of a building or structure.

**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 Processing Facility:** A facility for the bulk processing of agricultural products, such as a cheese factory or slaughterhouse.

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

**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 ranges 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.

**Building-Integrated Photovoltaic (BIPV) System:** A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the façade, which does not alter relief of the roof.

**Building-Mounted Solar Energy System:** A solar energy system that is affixed to the roof or sides(s) of a building or other structure, either directly or by means of support structures or other mounting devices. Solar energy systems constructed over a parking lot are considered building-mounted solar energy systems.

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

**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 zoning permit and complies with the provisions of this law, and may be occupied and used for the purposes specified in such zoning permit and certificate of compliance.

**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, hotels and motels, hostels, and business and professional offices and services.

**Day Care Center, Child:** Any use defined as a *Child Day Care Center* in Section 390 of Social Services Law.

**Day Care Home, Family:** Any use defined as a *Family Day Care Home* in Section 390 of Social Services Law.

**Day Care Home, Group:** Any use defined as a *Group Day Care Home* in Section 390 of Social Services Law.

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

**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 schools exclusive of day care facilities, 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. This definition 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.

**Fuel Distribution Operation:** Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels, where 300 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 for sale, as an industrial or commercial operation, but does not include the process of grading a lot preparatory to the construction of a building which has an approved permit.

**Ground-Mounted Solar Energy Systems:** A solar energy system that is affixed to the ground either directly or by support structures or other mounting devices and that is not attached or affixed to an existing structure. Pole-mounted solar energy systems shall be considered ground-mounted solar energy systems.

**Home-based Business:** A nonresidential activity conducted for financial gain that is clearly incidental and secondary to a residential use, and meets the requirements of Section 415 of this law.

**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.

**Large Scale Solar Energy System:** Any solar energy system that cumulatively on a lot meets one of the following provisions:

1. Is intended to supply energy principally into a utility grid for the purpose of off-site sale or consumption, or
2. Has a total ground surface area of greater than 10,000 square feet.

**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 (7 April 1986) and any subsequent amendments.

**Lot Frontage:** The portion of a lot facing the principal access.

**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.

**Minimum Maintenance Road:** A road designated as minimum maintenance by Local Law No. 1 of 1997.

**Mobile Home:** A structure, transportable in one or more sections, which is at least 8 feet in width and 32 feet in length, which is built on a permanent chassis and designed to be used as a dwelling unit, with or without a permanent foundation when connected to the required utilities. 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. This term shall not include factory manufactured homes known as *modular homes* bearing an insignia issued by the State Fire Prevention and Building Code Council as required in 9 NYCRR 1212. This term shall not include recreational camping vehicle.

**Mobile Home, Single-Wide:** A mobile home which is manufactured as a single section and is designed to be complete dwelling when transported to the placement site.

**Mobile Home, Double-Wide:** A mobile home which is manufactured in two or more sections off-site which are designed to be transported individually to the placement site and assembled there to form a complete dwelling.

**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.

**Prime Farmland:** Land, designated as “Prime Farmland” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

**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: public parks, playgrounds, and recreational areas; public libraries; fire, ambulance, and public safety buildings; and public meeting halls and community centers.

**Recreation, Active:** Any form of recreation requiring significant levels of organization, buildings or large numbers of persons. (NOTE: small groups of persons using snowmobiles or trail bikes are considered forms of passive recreation; however, a snowmobile race or a motor-cross race, for example, are considered active forms of recreation.)

**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 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.

**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.

**Sign:** Any object, device, display, or structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images.

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

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

**Small Scale Solar Energy System:** Any solar energy system that cumulatively on a lot meets all of the following provisions:

- a. Is an accessory use or structure designed and intended to generate energy primarily for a principal use located on site.
- b. Has a total ground surface area no larger than 10,000 square feet.

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

**Solar Collector:** A solar or photovoltaic cell, plate, panel, film array, reflector or other structure affixed to the ground, a building or other structure that harnesses solar radiation to directly or indirectly generate thermal, chemical, electrical or other usable energy, or that reflects or concentrates solar radiation to a solar or photovoltaic cell, plate, panel, film, array, reflector or other structure that directly or indirectly generated thermal, chemical, electrical or other usable energy.

**Solar Energy System:** A complete system intended for the collection, inversion, storage and/or distribution of solar energy and that directly or indirectly generates thermal, chemical, electrical or other usable energy. A solar energy system consists of, but is not limited to, solar collectors, mounting devices or structure, generators/turbines, water and energy storage and distribution systems, storage maintenance and/or other accessory buildings, inverters, combiner boxes, meters, transformers and all other mechanical structures.

**Solar Panel:** A device for the indirect conversion of solar energy into electricity.

**Solar Thermal System** – A system that directly heats water or other liquid using sunlight.

**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 230 of this law which must be reviewed and approved by the Town Board prior to the enforcement officer issuing a zoning permit.

**Storage Vehicle:** Any bus, van, travel trailer, semi-trailer, truck trailer, or mobile trailer of any kind which is not registered and is used for stationary permanent or semi-permanent storage purposes.

**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 Power Generating Facilities:** Wind generating facilities which generate original power on site to be transferred to a transmission system for distribution to customers.

**Wood Processing:** A facility for the bulk processing of primary wood products, such as a sawmill.

**Zoning 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.

## **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	Hamlet District
B	Rural Residential District
C	Agricultural District
D	Forest District
W	Water Supply Protection Overlay Zone (see Section 365)

### **Section 220. 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 20 feet into the more restrictive portion of the lot, provided the lot has frontage on a road in the less restricted district.

### **Section 230. Zoning Permit Requirements**

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

- P = Zoning permit required.
- S = Zoning permit required following special use review by the Town Board.
- N = Not allowed in this district.
- E = Exempt from the requirements of this law

<b>LAND USE</b>	<b>A District</b>	<b>B District</b>	<b>C District</b>	<b>D District</b>
Accessory Structure	See Section 350			
Agricultural Processing Facility	N	N	P	N
Agricultural Structure	S	E	E	E
Bed and Breakfast	P	P	P	P
Campground	N	N	N	N
Child Day Care Center	P	P	P	N
Commercial Establishment	S	S	S	N
Dwelling, Multi-Family	S	S	S	N
Dwelling, Single-Family	P	P	P	P
Dwelling, Two-Family	P	P	P	N
Educational Facility	P	P	P	N
Essential Facilities	S	S	S	S
Fuel Distribution Operation	S	S	S	N
Gravel Pit	N	S	S	S
Home-Based Business	P	P	P	P
Junkyard	N	P	P	N
Large Scale Solar Energy System	N	S	S	S
Manufacturing	S	S	S	N
Mobile Home Park	N	S	S	N
Public and Semi-Public Facility	P	S	S	N
Public Utility Transmission	S	S	S	S
Recreation, Active	S	P	S	S
Religious Facility	P	P	P	S
Small Scale Solar Energy System	P	P	P	P
Telecommunication Tower	N	N	S	S
Vehicle and Engine Service and	S	S	S	N
Wholesale Business	S	S	S	N
Wind Power Generating Facilities	N	N	S	S
Wood Processing	N	N	P	P

### **Section 240. 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:

	<b>A District</b>	<b>B District</b>	<b>C District</b>	<b>D District</b>
Lot area minimum, lot on public	no minimum	1.5 acres	2 acres	3 acres
Lot frontage minimum	200'	210'	300'	500'
Setback minimums:				
from centerline of state highways	60'	60'	60'	60'
from centerline of other roads	60'	60'	60'	60'
from side and rear lot lines	20'	50'	50'	100'

## **ARTICLE 3. GENERAL REGULATIONS**

### **Section 305. 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 of floor space in a commercial establishment, excluding eating and drinking establishments
4. One parking space per 50 square feet of floor area in eating and drinking establishments.

### **Section 310. 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 315. Height of Structures**

A proposed structure in any district shall not exceed 40 feet in height unless such a structure is an agricultural structure.

### **Section 320. 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. In no case shall large amounts of refuse be incinerated without consulting local officials.

### **Section 325. Individual Mobile Homes**

Individual mobile homes shall be subject to all applicable portions of this code pertaining to single-family dwellings.

### **Section 330. Recreational Camping Vehicles**

No more than three recreational camping vehicles shall be occupied on an overnight basis on private land with the consent of the owner for a period not to exceed 14 calendar days per year provided all health standards are met. This shall not be interpreted to prevent parking a recreational camping vehicle on an owner's lot unoccupied for storage purposes only. Standards for use of recreational camping vehicles are as follows:

1. Recreational camping vehicles shall be licensed and/or registered.

2. Recreational camping vehicles shall comply with the setback requirements for the zoning district they are located in.
3. Porches or other additions shall not be added to recreational camping vehicles.

### **Section 335. Mobile Home Parks**

Mobile homes shall follow the same guidelines established for major subdivisions in The Town of West Turin Subdivision Law. Individual siting of mobile homes in a mobile home park shall comply with Section 325 above.

### **Section 340. 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. Additions to any existing building requiring a zoning permit.

### **Section 345. Accessory Structures and Additions**

1. All accessory structures, except signs, shall comply with the setback requirements of Section 240 of this law for the zone in which it is situated. Accessory structures, except signs, exempt from the permit requirements of Section 810 of this law shall still meet all setback requirements of Section 240 of this law.
2. Where a structure is accessory to a use requiring special use review, as indicated in Section 230 of this law, such accessory structure shall likewise require a special use review.
3. All additions shall meet all setback requirements of Section 240 of 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 815 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. Storage Vehicles**

Storage vehicles shall be allowed in zones B, C, and D and prohibited in all other zones. Storage vehicles with an area of 144 square feet or greater shall comply with the standards set for accessory structures in Section 345 of this law.

## 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 230 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. Disposal of any sludge, solid waste, petroleum, radioactive material, hazardous substance, or hazardous waste.
  - c. Construction and operation of sewage treatment systems (including individual household septic systems) within: 100 feet of a watercourse or a wetland; or 200 feet of a public water supply reservoir or spring.
  - d. Storage of petroleum within: 100 feet of a watercourse or wetland; or 200 feet of a public water supply spring or reservoir.
  - 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; or 200 feet of a public water supply spring or reservoir.

- 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 of hazardous substances or wastes for residential purposes.
- j. Commercial use, storage, or application of pesticides unless authorization by the New York State Department of Environmental Conservation.
- k. Logging without a written timber harvesting plan. Such a plan should minimize impacts on water quality using timber harvesting guidelines and best management practices as recommended by the New York State Department of Environmental Conservation.

### **Section 365. Seasonal Use Classification**

1. The purpose of this regulation is to provide for the reasonable use of recreational, agricultural and forestry properties which are accessed solely by minimum maintenance roads. 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 minimum maintenance roads.
2. Seasonal use classification is a use classification in addition to the use classifications of Section 230 of this law. Application for seasonal use classification may be made for any use which intends to have its principal access to a minimum maintenance road.
3. For a use to be established with its principal access to a minimum maintenance road, it must, in addition to the allowed use requirement of Section 230 of this law, also be classified as a seasonal use.
4. Where a use has access to both a minimum maintenance road and to a non-minimum maintenance road, such use shall have its principal access to the non-minimum maintenance road unless classified as a seasonal use.

### **Section 370. 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. All existing signs at the time this law is adopted shall be allowed to remain as long as they are properly maintained and their use remains current.
4. No sign shall project into public right of way.
5. One on-site sign is permitted, not to exceed 32 square feet per side, to be illuminated during regular business hours only.

6. Off-site directional signs are permitted, located within five miles of the use to which directions are indicated, not to be illuminated between 12:00 am (midnight) and 6:00 am, and not to exceed 32 square feet per side.

#### **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. Home-based Business**

1. Home-based business activities are exempt from the provisions of this law unless they have one or more of the following characteristics:
  - a. one or more nonresidents are employed;
  - b. total floor area devoted to retail sales exceeds 400 square feet;
  - c. two or more customer, client or delivery vehicles are present on the site at one time;
  - d. the business is open to off-street customer or client traffic, other than for the sale of farm products grown on the premises.
2. Home-based business activities not exempted by the above criteria shall meet the following standards:
  - a. Total floor area devoted to the business shall not exceed 49% of the total floor area of the principal residential use located on the lot;
  - b. Operation shall be limited to the interior of a building (in the Hamlet district only);
  - c. The exterior of a building containing a home-based business shall not be altered to accommodate the business;
  - d. One on-premises sign not to exceed six square feet shall be allowed;
  - e. Manufacturing and assembly operations shall be limited to five-horsepower tools;
  - f. Excessive noise, glare, vibrations, and/or electronic and microwave interference with radios, TVs and other household appliances shall not be produced;

- g. Hours of operation shall be limited to 6 a.m. - 9 p.m. Monday through Saturday, and 7 a.m. - 8 p.m. on Sundays;
  - h. All parking shall be provided on-site in accordance with Section 305, and there shall be no on-street parking;
  - i. The business shall employ a maximum of three people;
  - j. Retail sales of motor fuel shall be prohibited.
3. Home-based business activities not meeting the standards above may be classified as a commercial use, where such commercial use is allowed in the zone in which the use is situated.

### **Section 415. 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 230 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 West Turin.

### **Section 420. Gravel Pits**

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 425. 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. The normal setbacks for the district shall apply to all ancillary 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. Guyed towers shall be preferable to free-standing structures. 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 non-deciduous 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 special use approval 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 430. Wind Power Generating Facilities**

1. **Setbacks from road centerlines:** 100 feet plus height of structure, minimum.
2. **Setback from side and rear lot lines:** 300 feet, minimum.
3. **Setback from any existing residential structures:** 1,500 feet, minimum.
4. **Landscape and screening:** Deciduous or non-deciduous tree plantings may be required to screen portions of the wind power generating facility 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 each wind power generating facility, 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.

## **ARTICLE 5. SOLAR ENERGY SYSTEMS**

### **Section 510. Purpose and Intent**

1. The Town of West Turin recognizes that solar energy is a clean, readily available and renewable energy source. It further recognizes that energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated.
2. The Town of West Turin has determined that comprehensive regulation regarding the development of solar energy systems are necessary to protect the interests of the Town, its residents and its businesses. This article aims to accommodate solar energy systems while balancing the potential impact on neighbors and preserving the rights of property owners to install solar energy systems.
3. This article is intended to promote the effective and efficient use of solar energy resources, set provisions for the placement, design, construction and operation of such systems to be consistent with the Town comprehensive plan, to uphold the public health, safety and welfare, and to ensure that such systems will not have a significant adverse impact on the ecological, environmental, agricultural, economic, or aesthetic qualities and character of the Town.

### **Section 520. Applicability**

1. A zoning permit shall be required for installation of all solar energy systems, with the exception of:
  - a. Photovoltaic systems that are integrated directly into building materials, such as roof shingles, and that are a permanent and integral part of, and not mounted on the building or structure;
  - b. Small solar panels of less than one square yard used individually for charging of batteries and powering small equipment or devices (such as lighting); or
  - c. Photovoltaic systems that meet the requirements of the New York State Unified Solar Permit (systems with a rated DC capacity of 25 kW or less that meet other requirements).
2. All Large Scale Solar Energy Systems shall obtain special use permit approval from the Town Board prior to the issuance of a zoning permit.

### **Section 530. Solar Design Standards**

1. All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Building Code"), the NYS Energy Conservation Code ("Energy Code"), and Article 10 of the Public Service Law, where applicable.
2. All on-site electrical wires associated with Solar Energy Systems shall be installed underground, except for "tie-ins" to a public utility company and public utility company utility poles, towers and lines. This standard may be modified by the Town Board if the

project terrain is determined to be unsuitable due to documented reasons of excessive grading, biological impacts or similar factors.

3. All Solar Energy Systems shall be operated such that no damage is caused by stray voltage. If it has been demonstrated that a system is causing stray voltage, the system operator shall promptly mitigate the damage or cease operation of the system.
4. All solar panels shall have anti-reflective coatings.
5. All solar collectors and related equipment shall be surfaced, designed and sited to minimize glare on adjacent properties and roadways.
6. All solar collectors and their associated support elements shall, at the time of installation, be designed according to generally accepted engineering practice to withstand wind pressures applied to exposed areas by wind from any direction, to minimize the migration of light or sound from the installation and to minimize the development of sight obstructions for adjacent structures or land parcels.
7. All Solar Energy Systems shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate solar access for collectors.
8. Solar Energy Systems and equipment shall be permitted only if they are determined by the Town of West Turin not to present safety risks, including, but not limited to, weight load on structures, ingress or egress to property in the event of an emergency, traffic site lines, and wildlife habitat.

#### **Section 540. Small Scale Solar Energy Systems**

1. Building-mounted Solar Energy Systems shall incorporate the following design requirements, in addition to those listed in Section 530 of this law:
  - a. Solar panels on pitched roofs shall be mounted with a maximum distance of eight inches between the roof surface and the highest edge of the system.
  - b. Solar panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
  - c. Solar panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
  - d. Solar panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.
  - e. Solar panels shall not restrict chimney function in any way.
  - f. Solar panels shall not create unsafe structural loads on roofs or walls.
  - g. Solar panels shall not be located near any flammable materials.

- h. Signage displaying disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface.
2. Ground-mounted solar collectors for a Small Scale Solar Energy System are subject to the following conditions:
- a. Lot Size. Lot size shall be no less than one acre.
  - b. Height and Setback. Ground-mounted solar energy systems shall not exceed a maximum height of fifteen (15) feet and shall adhere to the setback requirements of the underlying district.
  - c. Small scale ground mounted solar energy systems shall not be located between the front lot line and the principal structure.

### **Section 550. Large-Scale Solar Energy Systems**

1. Large-Scale Solar Energy Systems shall be subject to the following review requirements.
- a. The Town Board may request a financial deposit from the applicant to reimburse reasonable and necessary costs incurred by project review.
  - b. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted in the application.
  - c. Plans showing the layout of the Solar Energy System shall be signed by a Professional Engineer registered in New York State.
  - d. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
  - e. The application shall include a property operation and maintenance plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming, fence maintenance, signage, and lighting.
  - f. The site plan shall identify wildlife species that may use the parcel, including potential wildlife travel corridors, migration paths, or critical habitats.
  - g. The Town Board may require that photo simulations included showing the proposed Large scale solar energy system in relation to the site along with elevation views and dimensions, and manufacturer's specifications and photos of the proposed Large scale solar energy system, solar collectors, and all other components. The Town Board may require photo simulations to be provide from specific roads or other public areas that may be impacted.
  - h. To ensure the proper removal of a Large Scale Solar Energy System as required under Section 560 of this law, a Decommissioning Plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the

issuance of special use permit approval under this Section. The Decommissioning Plan must specify that after the Large Scale Solar Energy System can no longer be used, it shall be removed and disposed of by the applicant or any subsequent owner in a lawful and environmentally proper manner. The plan shall demonstrate how the removal of all infrastructure, including, but not limited to panels, foundations, above and below ground wiring, access roads, fencing, and signage and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a Professional Engineer or Contractor. Removal of Large Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan.

- i. Sureties/Bond. The applicant may be required to provide financial sureties, as set forth, for the removal of a Large-Scale Solar Energy System. Pursuant to the execution of the decommissioning plan, the applicant shall provide the Town with a bond in an amount determined by the Town Board to cover the expense of removal of the system and remediation of the landscape in the event the Town must remove the facility. The amount of the bond or security shall be 110 % of the cost of removal of the Large-Scale Solar Energy System and restoration of the property. The amount of the bond or security shall be updated by a qualified independent engineer licensed to practice in the State of New York to reflect inflation and any other changes after one year of project operation, and every fifth year thereafter. Updated amount figures will be filed with the Town Board. The bond or security shall be in a form acceptable to the Town attorney, which includes, but is not limited to, an escrow account, a letter of credit, perpetual bond, or any combination thereof.
2. All Large Scale Solar Energy Systems shall incorporate the following design requirements, in addition to those listed in Section 530 of this law:
    - a. Lot Size. Large Scale Solar Energy System shall be located on lots with a minimum size of 10 acres.
    - b. Setbacks. Large Scale Solar Energy Systems shall comply with the setback requirements of the underlying district for principal structures. The Town Board may require greater setbacks if deemed necessary to lessen the impacts of the project on neighboring properties.
    - c. Fencing and Screening. All Large Scale Solar Energy System shall be enclosed by fencing with a self-locking gate to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The fencing and the system may be required to be screened by landscaping as needed to avoid adverse aesthetic impacts.
    - d. Signage. Signage shall include and be limited to:
      - i. the manufacturer's name, equipment specific information, safety information, and 24-hour emergency contact information. Said

information shall be depicted within an area no more than eight square feet.

- ii. disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
- e. Lighting. Lighting shall be limited to that minimally required for safety and operational purposes and shall be reasonable shielded and downcast from abutting properties.
- f. Access. Construction of on-site access roadways shall be minimized. Roadways shall be unpaved and constructed with a pervious surface.
- g. Tree-Cutting. Removal of existing trees larger than six inches in diameter should be minimized to the extent possible.
- h. Vegetation. Vegetation shall be maintained below solar panels. The ground within the fenced perimeter shall not be tamped, compressed, or otherwise conditioned with herbicides or similar other treatment to inhibit the growth of natural vegetation. The Town Board may allow for or require co-usage of the lands under and around installed solar panels for grazing or growing of crops that could be grown or harvested without damaging or interfering with solar facilities.
- i. Prime Farmland. To the maximum extent practicable, Large Scale Solar Energy Systems shall not be located on prime farmland, as defined by the Natural Resource Conservation Service. If such location is unavoidable, systems shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.

### **Section 560. Abandonment and Removal**

Solar Energy Systems are considered abandoned when the Code Enforcement Officer determines the site and system has not been maintained, is a safety risk, or after one year without electrical energy generation and must be removed from the property. If the Solar Energy System ceases to perform its originally intended function for more than twelve (12) consecutive months, the property owner shall remove the system, mount and associated equipment and facilities by no later than ninety (90) days after the end of the twelve (12) month period. Failure to comply with this section will result in enforcement action detailed in Section 860 of this law. If the Large Scale Solar Energy System is not decommissioned after being considered abandoned, the Town may remove the system, restore the property and impose a lien on the property to cover costs to the municipality to the extent not covered by any surety/bond required under Section 550.1.i of this law.

## **ARTICLE 6. FINANCIAL GUARANTEES FOR PUBLIC IMPROVEMENTS**

### **Section 605. Required Public Improvements**

All public improvements required pursuant to the approval of subdivision plats or special uses shall be constructed and completed to the standards required by state and local laws, rules, and

regulations. Applicants for subdivision plats 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 required of applicants for subdivision plat or special use approvals.

#### **Section 610. Time Limit on Installation of Improvements**

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, site or special use. At the end of such 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.

#### **Section 615. Extension of Time Limit**

The applicant may request an extension of time to perform required public improvements provided reasonable cause can be shown for the inability to construct and install said improvements within the required time. Such extension of time shall not exceed six months.

#### **Section 620. Inspections of Improvements**

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 Town Board.

#### **Section 625. Financial Security Options**

Acceptable financial security shall be provided to the Town in the form of a bond executed by a surety company, a certified check, or an irrevocable letter of credit drawn in favor of the Town. Any such financial security shall be presented to the Town clerk in an amount equal to the cost of construction of the public improvements required by the Town Board pursuant to this law.

#### **Section 630. Review of Proposed Financial Security**

All required public improvements shall be shown on subdivision plats or site plans, 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 warranty 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 635. 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 640. 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 645. Acceptance of Required Public Improvements**

When the project inspector, following final inspection of the project, certifies to 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 650. Maintenance Guarantee Required**

Upon acceptance of the required public improvements, a maintenance guarantee shall be established. All such guarantees shall be for ten percent 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 625 above, but no maintenance bond shall be for less than \$5,000 face value. All maintenance guarantees required by this section shall commence immediately upon acceptance of the required public improvements by the municipality and shall extend for two 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. NONCONFORMITIES**

### **Section 710. 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 720. Lots**

1. A nonconforming lot of record may be improved with structures or utilized for permitted uses or activities, provided the provisions of the NYS Sanitary Code and all other provisions of this law, including setbacks, 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 730. 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.

## **Section 740. 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 addition or reconstruction which is on the premises of a nonconforming multi-family residential or nonresidential use.

## **ARTICLE 8. ADMINISTRATION AND ENFORCEMENT**

### **Section 805. Zoning Permits Required**

No land-use activity as listed below shall be carried out until a zoning 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. Any additions;
3. Change in 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 uses;
6. Placement of a sign as regulated in Section 370 of this law;

### **Section 810. Zoning Permit Exceptions**

A zoning 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 (see Section 350 of this law);
2. Fences or walls;
3. 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.);
4. Minor accessory structures such as posts, sidewalks, flagpoles, playground equipment, etc.;
5. Family day care homes and group family day care homes;
6. Nonstructural agriculture and forest management uses.

### **Section 815. Temporary Zoning Permits**

1. The enforcement officer shall approve or disapprove temporary zoning permits.
2. Temporary zoning 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 enforcement 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.

3. Temporary zoning 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 zoning permits may be issued for a period not to exceed two years.
4. All temporary zoning permits shall be conditioned upon agreement by the applicant to remove any nonconforming uses or structures upon expiration of the permit.

### **Section 820. Application Procedure for Zoning Permits**

1. Applications for zoning permits shall be submitted to the enforcement officer and shall include two copies of a layout or plot plan showing the actual dimensions of the lot to be used; the size and location on the lot of existing and proposed structures and accessory structures; the setbacks of structures from all lot lines, road lines, mean high water lines of lakes, streams, ponds and wetlands, and any other features of the lot; the locations of all on-site sewage disposal systems and wells; and such other information as may be necessary to provide for the enforcement of this law. This information, and other relevant application data, shall be provided on forms issued by the Town clerk.
2. When establishing measurements to meet the required setbacks and yard sizes, the measurements shall be taken from the lot line, road centerline, or nearest mean high water line to the furthestmost protruding part of the use or structure. This shall include such projecting facilities as porches, carports, attached garages, etc.
3. The enforcement officer shall take action to approve or disapprove the application within ten days of the receipt of a completed application by the enforcement officer and the payment of all fees.
4. A zoning permit shall expire three years from the date of issue if construction is not substantially started or the use has not commenced. Such permit may be renewed upon payment of all fees.

### **Section 825. Permit Fees**

1. A fee as determined by Town Board resolution shall be paid for each application for a zoning permit or special use approval. No permit shall be issued until full payment has been received by the Town clerk.
2. The Town Board may retain consulting services from engineers, architects, landscape architects, lawyers, planners, or other professional services during the course of special use approvals conducted pursuant to this law. The applicant shall pay any actual costs attributable to a consultant's review of an application. The Town Board may require the applicant to deposit such funds as may be necessary to pay for these services with the Town in advance.

### **Section 830. Certificate of Compliance**

No use or structure requiring a zoning 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. All certificates of compliance shall be applied for

coincidentally with the application for a zoning permit and shall be issued within ten days after the use has been approved as complying with the provisions of this law.

### **Section 835. Temporary Certificate of Compliance**

A temporary certificate of compliance for not more than 30 days for a part of a building or lot may be issued upon approval of the zoning board of appeals. Such temporary certificate may be renewed upon request for an additional 30 days.

### **Section 840. Unapproved Lots**

No zoning 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, 2000, 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 845. Enforcement Officer**

This law shall be enforced by the enforcement officer, who shall be appointed by the Town Board. The duties of the enforcement officer shall be to:

1. Approve and disapprove zoning permits and certificates of compliance;
2. Scale and interpret zone boundaries on the zoning map;
3. Refer appropriate matters to the board of appeals, planning board, or Town Board;
4. Revoke zoning 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 zoning permits and certificates of compliance issued.

### **Section 850. Zoning Board of Appeals**

1. The zoning 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 zoning board of appeals. In the event of a cooperative zoning 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 zoning 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 zoning 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 zoning 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 zoning 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.

### **Section 860. 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 fifteen (15) days, 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 fifteen (15) days, 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 fifteen (15) days, 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.

## **ARTICLE 9. SPECIAL USE REVIEW AND APPROVAL**

### **Section 910. Applicability**

1. All uses designated as requiring special use review pursuant to Section 230 of this law, shall have an application approved by the Town Board prior to the issuance of a zoning 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 Town Board. Minor amendments to plans or minor changes to uses shall be reviewed 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 Town Board may hold a public hearing at their discretion.

### **Section 915. General Review Criteria**

The Town 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 920. Application**

The enforcement officer shall refer any application for a zoning permit which requires a special use approval to the Town Board. An application for a special use approval shall be filed with the Town 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 zoning 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 Town 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 Town Board.

### **Section 925. Waiver of Submission Requirements**

The Town 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 930. Environmental Impact Review**

The Town Board shall be responsible for the completion of an environmental assessment form (EAF) for each application. The Town 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 935. Review**

Upon a determination by the Town Board that the application is complete, the board shall review the site plan taking into consideration the objectives as outlined in Section 915 above and all other requirements of this law.

### **Section 940. Area Variance**

During the course of the review, should the Town 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 Town Board may refer the application to the board of appeals for the consideration of such variance.

### **Section 945. Public Hearing**

The Town 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 950. Referral to County Planning Board**

At least 10 days before the hearing, the Town 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 500 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 Town Board may act without such report.

### **Section 955. Final Action**

1. The Town Board shall take action within 62 days of the public hearing. The time within which the Town Board must render its decision may be extended upon mutual consent of the applicant and the Town Board. The action of the Town 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 Town Board shall have the authority to impose such reasonable conditions and restrictions on the issuance of a zoning permit for the application as are directly related to and incidental to the application. The decision of the Town 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 Town 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 zoning permit.
3. If the application is approved with modifications, the Town 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 Town 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 zoning permit.
4. If the application is disapproved, the statement shall contain the reasons for such findings.

### **Section 960. Report to County Planning Board**

Within 30 days of final action on any matter referred to the county planning board pursuant to Section 950 above, the Town Board shall file a report of the final action it has taken with the county planning board.

## **ARTICLE 10. MISCELLANEOUS PROVISIONS**

### **Section 1010. 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 1020. Interpretation**

Interpretation and application of the provisions of this law shall be held to be minimal requirements, adopted for the promotion of the public health, safety, or the general welfare. Whenever the requirements of this law differ from the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.