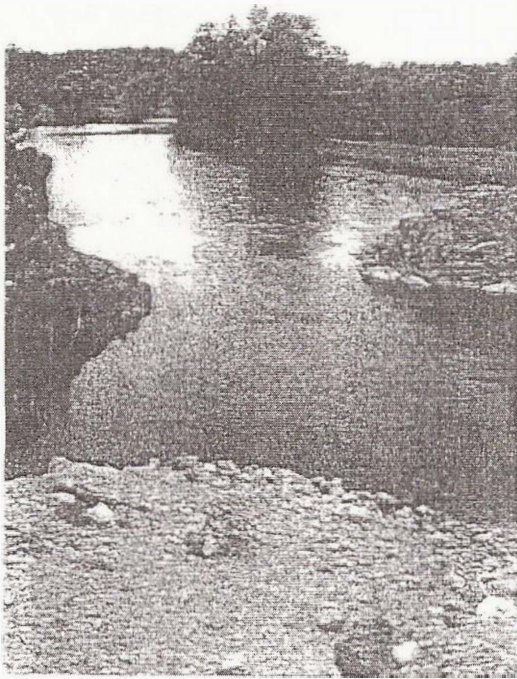


Town of Theresa



Zoning Regulations

Passed January 6, 1986
Revised February 10, 1999
Revised July 14, 2010
Revised July 2022

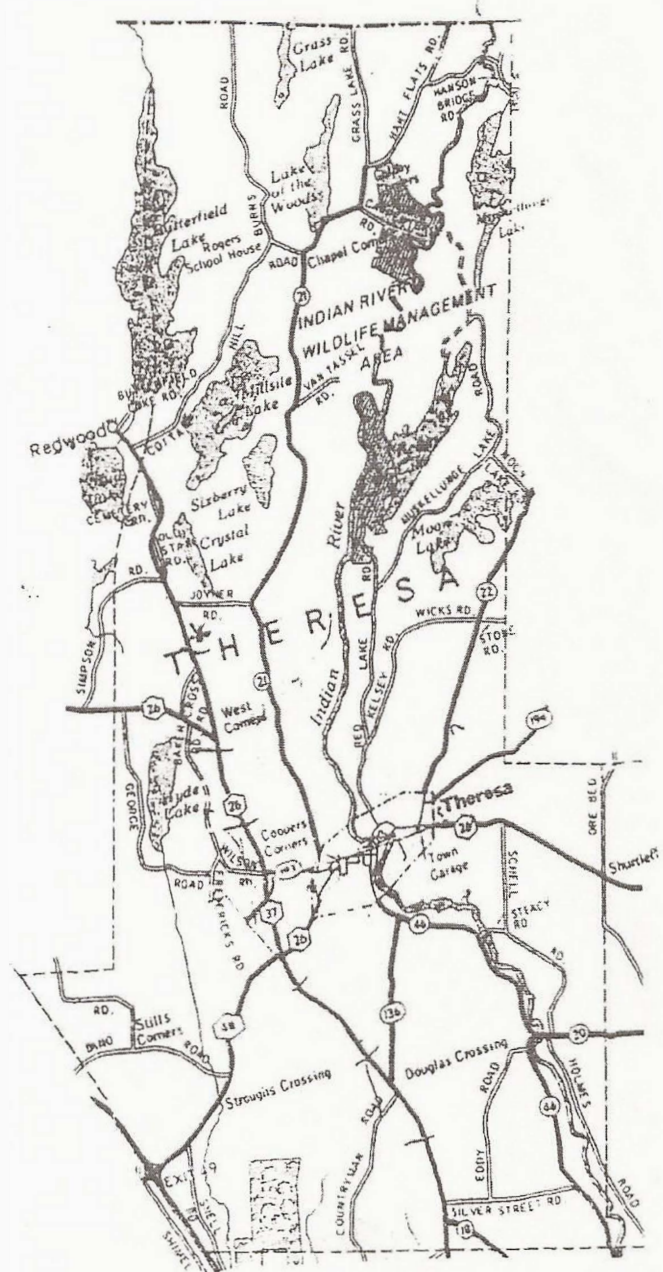


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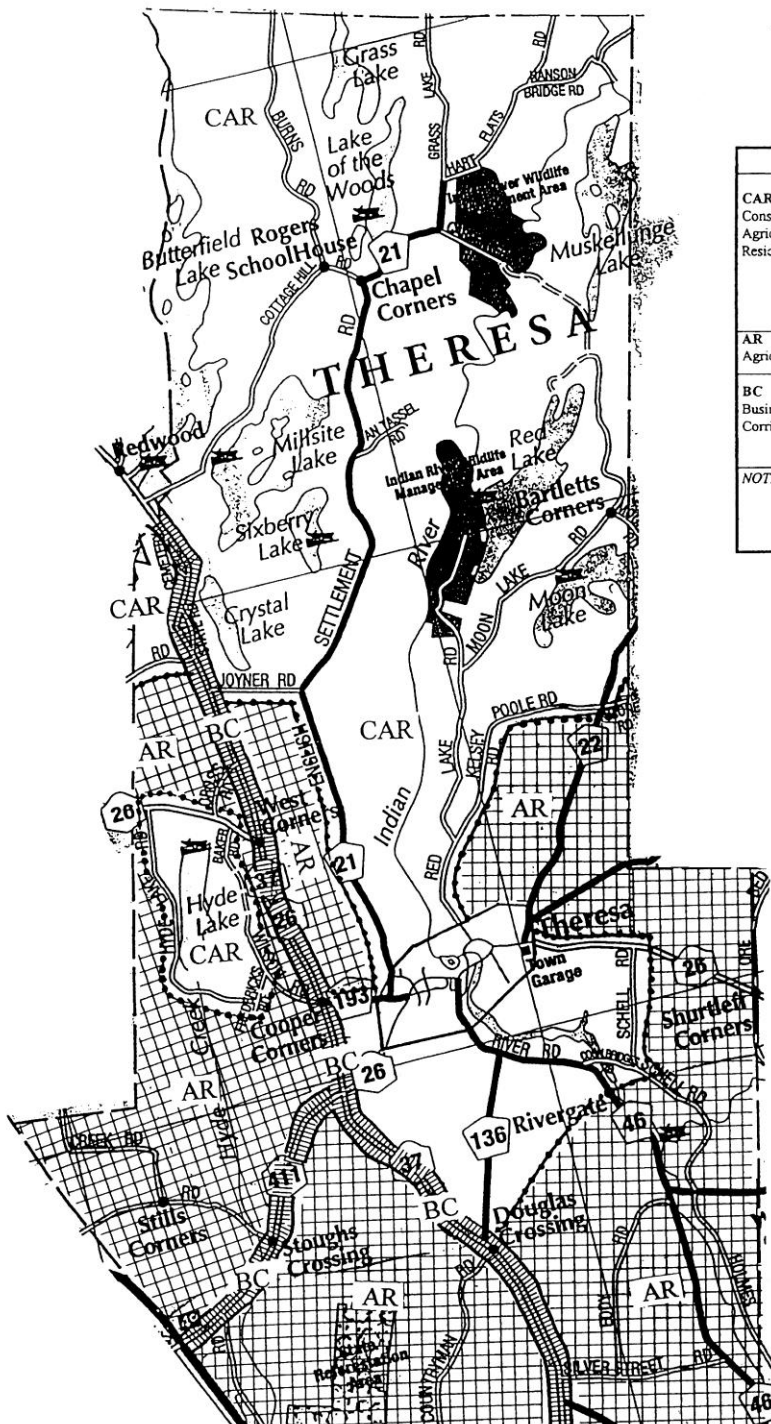
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TOWN OF THERESA ZONING MAP FEBRUARY 10, 1999



DISTRICTS	
CAR Conservation, Agricultural & Residential	The boundary for this district is setback 250 ft from the centerline of the following roads: Simpson Rd, Joyner Rd, English Settlement Rd, Red Lake Rd, NY 26, Schell Rd, Hyde Lake Rd, Wilson Rd, Baker Rd.
AR Agricultural & Residential	
BC Business Corridor	The boundary for this district is setback 500 ft from the centerline of the following roads: NY 37 & NY 411.
NOTE: Map is not to scale. This is for reference purposes only. The official Zoning Map is available at the Town Clerk's Office.	

KEY	
CAR	
AR	
BC	

ARTICLE 1. INTRODUCTION

Article 1. - Statement of Purpose and Findings. The Town Board of the Town of Theresa, pursuant to the authority granted it under Article 16 of the Town Law and Sections 10 and 20 of the Municipal Home Rule Law hereby enacts as follows:

Article 2. - Statement of Authority. The Town Board of the Town of Theresa is charged with providing for health, safety and welfare of its residents. Part of this function is served through the adoption of zoning regulations. Over time, it has appeared to the Town Board that certain amendments to the Zoning Law are necessary to provide additional clarity and ease administration. Further, technologies and business interests in the area have indicated that development not previously anticipated has come to the area such as commercial wind towers or private wind towers. In order to protect the citizens of the Town of Theresa, the Town Board wishes to make certain amendments to the Zoning Law to provide some additional definitions and clarity with respect to fences and recreational camping trailers. Also the Town Board wishes to provide comprehensive regulation of Commercial Wind Energy Conversion Systems as well as Small Wind Energy Conversion System. It is the purpose of this local law to accomplish these goals.

Article 3. - Enactment. The Town Board of the Town of Theresa hereby amends its Zoning Law as follows:

Article 4. – Severability. Should any provision of this Local Law be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole or any part hereof other than the part so decided to be constitutional or invalid.

Article 5. - Effective Date. This Local Law shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law.

SECTION 110. ENACTING CLAUSE

Pursuant to the authority conferred by Article 16 of the Town Law and Articles 2 and 3 of Municipal Home Rule Law of the State of New York, the Town Board of the Town of Theresa, Jefferson County hereby adopt and enact the following Local Law.

SECTION 120. TITLE

This Local Law shall be known as "The Town of Theresa Zoning Law."

SECTION 130. PURPOSE

The purpose of the Town of Theresa Zoning Law is to promote and guide development in an orderly and efficient manner. This will reduce land use conflicts, promote traffic safety, enhance and protect the historical and

recreational attributes of the Town, retain and improve land values, encourage quality development, insure wise use of utilities, and promote the general health and welfare of Town residents. This Law is designed to protect existing development while providing some control of growth so that future development will not be detrimental to the Town and its residents.

SECTION 135. APPLICATION OF REGULATIONS

- A. No building structure, or land shall hereafter be used or occupied and no building, structure, or part thereof shall be erected, moved or altered (to expand the exterior physical dimensions) unless in conformity with the regulations herein specified for the district in which it is located.
- B. No building shall hereafter be erected or altered:
 - 1. To exceed the maximum height requirements of the District in which they are located.
 - 2. To have narrower or smaller rear yards, front yards, side yards, than is specified for the district in which such building is located.
- C. No part of a yard or other open space about any building required for the purpose of complying with the provisions of these regulations shall be included as part of a yard or other open space similarly required for another building.
- D. The Enforcing Officer may require a larger lot than the minimum required under Article IV - Schedule II in order to provide sufficient space to meet the NYS Department of Health's administrative rules and regulations, design standard, appended 75-A, wastewater treatment standards - individual household system.

SECTION 140. APPLICABILITY

This Law, and any amendment thereto, shall apply on its effective date to all uses which have not been substantially commenced and structures which have not been substantially constructed, regardless of the status of permits or certificates of occupancy issued pursuant to the New York State Uniform Fire Prevention and Building Code.

SECTION 150. REPLACED AND SUPERSEDED ORDINANCES

This Law shall replace and supersede "The Town of Theresa Zoning Ordinance," Local Ordinance No. 1 of 1986 as amended.

ARTICLE 2. DEFINITIONS

When used in this Law, words in the present tense include the future and words of one gender include all genders. The singular number includes the plural and the plural includes the singular. The term "shall" means mandatory. Whenever a word or term is defined to "include" certain items or matters, such inclusion is intended to be by way of specification and not of limitation. The word lot includes the word plot or parcel and the word building includes structure. If interpretation or clarification of any word used in this Law is needed it shall be provided by the Zoning Board of Appeals in accordance with such powers granted to them.

ABC LICENSED FACILITY: Any facility requiring licensing by State ABC Board except for grocery and convenience stores.

ACCESSORY APARTMENT: Any second dwelling unit located on the same lot as a principal single-family dwelling, shall be located either within the principal dwelling or attached there to. Such a dwelling is an accessory use to the principal dwelling.

ACCESSORY BUILDING: A building, the use of which is customarily incidental to that of a principal building or use and which is located on the same lot as that occupied by the main building or use. An accessory building shall not be used as a sleeping facility.

ACRE: A measure of land area containing 43,560 square feet.

ADULT ENTERTAINMENT SERVICES: Any commercial or other enterprise which services "adult clientele" such products as pornographic literature, movies, etc., as well as facilities which advocate any female or male striptease.

AGRIBUSINESS OPERATION: Businesses that supply farms and agricultural operations with needed supplies, implements and other products.

AGRICULTURAL OPERATION: The raising and production (for compensation) of crops, livestock, poultry, dairy products, fish or other wildlife, trees, maple syrup products, and other similar pursuits. Tree growing and harvesting, animal husbandry, horticultural operations, forestry operations; and the sale, at wholesale or retail, of farm products upon the premises where the same are grown or produced shall be considered agricultural operations.

AGRICULTURAL STRUCTURE: A structure used for agricultural purposes.

ALTER/ALTERATION: To change or rearrange any exterior structural part of the existing facilities of a building or structure, by enlarging the building or structure, whether by extending any side or increasing the height thereof, or to move the same from one location or position to another. It shall not be considered an alteration if there is no expansion of exterior dimensions. For instance, replacement of windows, doors, siding, roofing, etc.; as well as interior alterations; shall not be considered an alteration for the purposes of this Law.

AMBIENT SOUND LEVEL : The background (exclusive of the development proposed) Sound Level (L)(90) found to be exceeded 90 percent of the time over which sound is measured in a noise analysis. Unless indicated otherwise, frequency weighting according to the A-weighting scale is understood to be applicable. Also referred to as Ambient Noise Level and Ambient Sound Pressure Level.

ANIMAL HOSPITAL: A facility for the medical treatment of animals.

AREA USE VARIANCE: The purpose or activity for which land or structures are designed, arranged, or intended, or for which land or structures are occupied or maintained.

AUTOMOBILE SERVICE STATIONS: Any lot or building or portion thereof used or occupied for the sale or supply of gasoline or motor vehicle fuels, oils, or lubricants, or for the polishing, greasing, washing, or servicing, of motor vehicles.

BILLBOARDS: An advertising sign, excluding a farm name or other farm identification, larger than 32 square feet in area shall be considered a billboard.

BOATHOUSE: An accessory building for the storage of boats and boating accessories; not to be used as a sleeping facility.

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

BUILDING LINE: The line, parallel to the road line, that passes through the point of the principal building nearest the front lot line.

CAMP: A structure with accommodations for living and sleeping designed for seasonal occupancy. The term does not include trailers or Ryes as camps.

CAMPGROUND: Land on which ten (10) or more campsites are located, established, or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education, or vacation purposes.

CAMPSITE: Any area of land within a campground intended for the exclusive occupancy of a single camping unit.

CAR WASH: A building, structure, or facility which obtains commercial income from the washing, cleaning or waxing of motor vehicles. Such a use may be the principle function of the building or land on which it is situated, or an ancillary use thereof.

CERTIFICATE OF COMPLIANCE: A certification by the Zoning Officer that a lot, structure, or use of land has been developed in conformity with an approved zoning permit and/or certificate of compliance.

CLUB, PRIVATE: A building or use catering exclusively to club members and their guests for fraternal or recreational purposes.

COMMERCIAL USE: Refers to retail sales, consumer service establishments and offices.

COMMERCIAL WIND ENERGY CONVERSION SYSTEM

(“C O M M E R C I A L W E C S”) : An array of wind turbines designed to deliver electricity to the power grid for sale with a combined production capacity of more than one hundred (100) kilowatts of energy, including all related infrastructure, electrical collection and distribution and substations, access roads and accessory structures.

DAY CARE CENTER, CHILD: Any use defined as a "Family Day Care Home" 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.

DRIVE-IN USE: A use which provides physical facilities which permit the service of customers while remaining in their motor vehicle.

DWELLING: A building or portion thereof, used or occupied as living quarters for one or more families. The term does not include tourist accommodations, trailers or mobile homes.

- a. **DWELLING. SINGLE FAMILY**: A detached building, designated for or occupied exclusively by one family and containing not more than one dwelling unit.
- b. **DWELLING. TWO FAMILY**: A detached building where not more than two individual families live; or where two dwelling units, with separate cooking, sanitary, living and sleeping facilities, exist.
- c. **DWELLING. MULTIPLE**: A building or portion thereof used or designed as a residence (including cooking, sanitary living or sleeping facilities) for each of the three or more families who reside therein.

ENFORCING OFFICER: The enforcing officer is the person appointed by the Town Board to carry out the regulations of this Law.

ENVIRONMENTAL ASSESSMENT FORM (EAF): A form used during the State Environmental Review process to assist in determining the environmental significance or non-significance of projects.

ERECT: To construct, build, re-erect, reconstruct, rebuild or excavate for a building or structure.

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, and similar facilities.

EXCAVATION: 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 or structure which has an approved permit.

EXCAVATION. CLASS 1: An excavation which is intended for the extraction of over 1,000 tons of material from the earth within one calendar year.

EXCAVATION. CLASS 2: An excavation which is not defined as a "Class 1 Excavation."

FAMILY: One or more persons living, sleeping, cooking, or eating on the same premises as a single housekeeping unit.

FENCE/WALL: A facility of wood, stone, or other materials or combination thereof intended for defense, security, screening, partitioning, or enclosure; or for the retention of earth, stone, fill or other materials as in the case of retaining walls or bulkheads. A wall shall be considered a fence.

FLOOR AREA: The total horizontal area of all floors of a building excepting the basement and attic thereof measured along the faces of the interior walls.

GARAGE, PRIVATE: A garage found on a lot, operated for non commercial and private interests. It is commonly thought to be an accessory use where an individual keeps his car, truck or other motor vehicles.

GARAGE, PUBLIC: A building used for the storage of automotive vehicles operated as a business enterprise with a service charge or fee being paid to the owner or operator for the parking or storage of privately owned vehicles.

GARAGE REPAIR: A building designed and used for the storage, car, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint and body work.

GASOLINE STATION: See definition for Automobile Service Stations.

HEIGHT: The vertical distance measured from the average elevation of the main grade at the front of the building/structure to the highest point of the roof.

HIGHWAY RIGHT OF WAY LINE: Same definition as Road Line.

HOME OCCUPATION/BUSINESS: An occupation or profession which is customarily carried on in a dwelling unit, or in a building or other structure accessory to a dwelling unit; and is carried on by a member of the family residing in the dwelling unit; and is clearly incidental and secondary to the use of the dwelling unit for residential purposes; and which conforms to the conditions of Section 640 of this Law.

HOSPITAL: Any hospital, sanitarium or other institution used or occupied for the care of persons mentally or physically ill, incapacitated or disabled.

HOTEL: A building which has a common entrance, and general dining room; and contains seven (7) or more living and sleeping rooms designed to be occupied by individuals or groups of individuals for short or extended periods of time.

HOUSEKEEPING UNITS: Any permanent building or part thereof, which is used or occupied for the overnight accommodation of less than seven transient guests and for which compensation is given. The term includes tourist homes, tourist cabins and camps, but does not include hotels, motels, auto courts or trailer camps.

INOPERATIVE MOTOR VEHICLE: Any motor vehicle which is unregistered and inoperative for a period of six (6) successive months or more.

JUNK: Any scrap, waste matter, reclaimable material, or debris, whether or not stored, for sale, or in the process of being dismantled, destroyed, processed, salvaged, baled, disposed, or other use or disposition, including tires, two or more inoperable motor vehicles, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, machinery, brush, wood, and lumber.

JUNK YARD, COMMERCIAL: Any area, lot, land parcel, building, or structure, or part thereof, approved for the storage, collection, processing, purchase, sale, salvage, or disposal of junk.

JUNK YARD, UNAUTHORIZED: The outdoor storage or deposit of any of the following:

1. Two or more junk vehicles;
2. One or more abandoned mobile homes or recreational camping vehicles;
3. One or more abandoned all-terrain vehicles or snowmobiles (as defined in the New York State Vehicle and Traffic Law);
3. Two or more inoperable appliances including, but not limited to, lawn and garden machines, washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions;
4. Two or more inoperable pieces of equipment;
5. Any combination of the above, or parts of the above, that total two or

more items.

6. A junk yard includes scrap and waste matter.

KENNEL: Land or building used for the harboring of five (5) or more dogs and/or cats (over six months of age).

LANDFILL: An area or lot designated or used for the disposal of waste matter as identified in this Law and under State Environmental Conservation Law. The regulations and manner of disposal are identified in said State Law and shall be a part of this definition.

LIGHT INDUSTRIAL OPERATIONS: A light industry is a facility which manufactures a product for wholesale or retail sale and does not employ over fifty (50) people. The industry does not produce high volumes of polluting wastes and is compatible with other uses of the Agricultural-Residential District.

LOT: A parcel of land used or occupied, or capable of being used or occupied, by a building or structure and the accessory buildings, structures or uses customarily incidental to it including such yards that are required by this Law.

LOT AREA: The total horizontal area included within the lot lines of a lot. No part of the area within a public right-of-way shall be included in the computation of lot area.

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

LOT DEPTH: The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

LOT LINE: Any line dividing one lot from another or from the street or waterway. On a street, public or private, where there is no right-of-way line the lot line shall be 25 feet from the center line of the paved or improved surface.

- a. **LOT LINE, FRONT**: The lot line adjoining any street/highway rightof-way line or the waterfront lot line. If a lot adjoins two or more streets or highways, it shall be deemed to have a front lot line respectively on

each.

b. **LOT LINE, REAR**: The lot line opposite and most distance from the front lot line.

c. **LOT LINE, SIDE**: Any lot line other than the front or rear lot lines.

LOT OF RECORD: A lot for which a valid conveyance has been recorded in the Office of the County Clerk prior to the effective date of the Town of Theresa Subdivision Regulations; or is either part of a subdivision plat approved by the Planning Board and filed in the County Clerk's Office, or was exempt from the Town of Theresa Subdivision Regulations at the time of recording with the County Clerk.

LOT WIDTH: The horizontal distance between the side lot lines measured at the required setback lines.

MANUFACTURED HOME: A dwelling unit consisting of one or more sections units and constructed to the Federal HUD Code effective July 15, 1976. These homes are built entirely in a factory and designed to be used with or without a permanent foundation. A steel frame, an integral part of the structure, is permanently attached to the floor joists of the manufactured home or its section. The home is transported to the site using hitch, wheels and axles, which are removed at the site. Each home is required to have a label that confirms compliance with the HUD code. Each home shall be a minimum of three hundred and twenty (320) square feet in size.

MANUFACTURING: Any land or structures used for the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins, or liquors.

ARINA: A commercial facility for the storing, servicing, fueling, berthing, and/or securing of pleasure boats.

MEDICAL FACILITIES: Any building, portion of a building or use thereof which is used in the diagnosis and/or treatment of medical ailments.

METES-AND-BOUNDS: A method of describing the boundaries of land by directions and distances from a known point of reference.

MOBILE HOME: A dwelling unit manufactured in one section, designed for long term occupancy; with plumbing and electrical connections provided for attachment to outside systems; designed to be transported after fabrication on its own wheels, and built before the National Manufactured Home Construction and Safety Standards Act 1974, as amended, 42 U.S.C. 5401 et seq., which went into effect on July 15, 1976

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: An area of land intended for the occupancy of mobile homes.

MOBILE HOME SITE: An area of land in a mobile home park intended for the exclusive occupancy of a single mobile home.

MODULAR HOME: A dwelling unit consisting of one, ore more sectional units manufactured off-site in accordance with the NYS Uniform Fire Prevention and Building Code.

MOTEL: A building, or group of buildings, whether detached or in connected units, used as individual sleeping or living quarters with direct outside access and related office, with or without mobile travelers, and provided with accessory off-street parking facilities.

MOTOR VEHICLE REPAIR SHOP: A building or a portion of a building which is arranged, intended or designed to be used (commercially) for malting repairs to motor vehicles.

MOTOR VEHICLE SALES: Establishment for display and sale or lease of new and used motor vehicles, trailers, mobile homes, boats, or other recreational vehicles.

NON-CONFORMITY: A lot of record, structure, or use of land which lawfully existed prior to the enactment of this Law, or conformed to the regulations of the zone in which it was located prior to the amendment of this Law; which does not

conform to the regulations of the zone in which it is located following the enactment or amendment of this Law.

NON-RESIDENTIAL USE: A use which does not contain a dwelling unit.

NURSING HOME: A dwelling where persons are lodged and furnished with meals and nursing care for commercial purposes. This shall not include homes for mentally handicapped, drug, or alcohol rehabilitation patients, etc.

OFF-STREET PARKING FACILITIES: A space for parking off the public streets and places in the Town.

OFFICE: A building, or part thereof used for conducting the affairs of a business, profession, service, industry, or government; and may include accessory services for office workers; but not include the on-premise manufacturing, servicing, storage, or distribution of goods or merchandise.

ORDINANCE: The word Ordinance shall refer to "The Town of Theresa Zoning Law".

PARCEL: That amount of contiguous land falling under a single ownership designated by an individual tax parcel number.

PARKING SPACE: An off-set space available for the parking of one (1) motor vehicle and having an area of not less than 10 feet by 20 feet exclusive of passage ways and accesses thereto.

PERMITTED ACCESSORY USE: A use incidental and subordinate to the principal use and located on the same lot with such principal use.

PERMIT BUILDING OR ZONING: A permit issued by the Zoning Officer certifying that all plans for the use and development of land comply with the regulations of this Law; and granting permission to commence development activities in conformity with the conditions of the approved permit.

PERMITTED USES: Any use permitted under the provisions for the district in which the land, building, or structure is located.

PLANNING BOARD: The Town of Theresa Planning Board.

PLAT: A map of a subdivided tract of land showing the boundaries and location of individual properties and roads.

POOL, SWIMMING: A structure or facility constructed to hold water at least three feet deep and used by both private and/or public parties for recreational purposes.

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.

PRIVATE: For the use of family and friends of the owner/occupant of the structure or lot only.

PUBLIC: Open to members of the general public for use.

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 area; schools; public libraries; fire, ambulance, and public safety buildings; and public meetings halls and community centers.

RECREATIONAL CAMPING VEHICLE: Any enclosed motor vehicle or trailer used or designed to be used for recreational travel and temporary living and/or sleeping purposes including motor homes, truck campers, camping trailers, campers, travel trailers, pop-up trailers, tent trailers, and overnight trailers.

RECREATIONAL FACILITY: A municipally or privately owned and operated, open space, athletic field, swimming area, etc. that is intended to be used for the enjoyment of recreational activities.

REHABILITATION CENTERS: A facility for mentally handicapped, drug or alcohol rehabilitation patients, or halfway houses.

RELIGIOUS INSTITUTION: A church, synagogue or other place of religious worship, which is tax-exempt and incorporated.

RESIDENCE: Any dwelling suitable for habitation existing in the Town of Theresa on the date an application is received. For purposes of this definition suitable for habitation shall mean that its primary purpose is for private occupancy and it has both electrical service and a connection to an on-site or off-site potable water supply and wastewater treatment/disposal system on a full-time basis. A residence may be part of a multi-dwelling or multipurpose building, but shall not include buildings such as hunting camps, hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools or other buildings used for educational purposes or correctional institutions.

RESIDENTIAL USE: A use containing a dwelling unit.

ROAD: A thoroughfare dedicated and accepted by a municipality for public use or legally existing on any map of a subdivision filed in the manner provided by Law.

ROAD LINE: The right-of-way line of a road as dedicated by a deed or record. Where the width of the road is not established, the road line shall be considered to be 25 feet from the center line of the road pavement.

SEORA: The New York State Environmental Quality Review Act, as codified in Article 8 of the New York State Environmental Conservation Law and its implementing regulations in Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York, Part 627 *et seq.* (6 NYCRR627).

SCHOOL: Any school licensed by the State and which meets the State requirements for elementary or secondary education.

SETBACK: The distance between a lot line, road line or the mean high water line of a body of water and a particular development feature of a lot such as a building, structure, or parking area.

SHOPPING CENTER: Two or more commercial establishments, built on a site that is planned, developed, owned and managed as an operating unit.

SIGN: Any material, structure or device, or part thereof, composed of lettered or pictorial matter which is located out-of-doors, or on the exterior of any building, or indoors as a window sign, displaying an advertisement, announcement, notice or name, and shall include any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interests of any person or business or cause when such is placed in view of the general public.

SITE PLAN REVIEW: A review by the Planning Board for the purpose of approving, modifying or disapproving site plans.

SMALL COMMERCIAL ENTERPRISES: A small commercial enterprise is a business that is intended to sell and trade retail goods, products or services to residents in the immediate community. Such enterprises shall include grocery stores, small implement dealers, restaurants and similar operations. It shall not include industrial or manufacturing operations or large commercial enterprises with more than ten employees and/or more than one acre in size.

SMALL WIND ENERGY CONVERSION SYSTEM (“SMALL WECS”): A wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce consumption of utility power on the lot where the Small WECS is located.

SOUND LEVEL: The statistical sound pressure level expressed as the sound pressure level that is exceeded for a given proportion of the time over which sound is measured. L(10) shall mean the standard abbreviation for the sound pressure level that is exceeded for 10 percent of the time over which the sound is measured. L(90) shall mean the standard abbreviation for the sound pressure level that is exceeded for 90 percent of the time over which the sound is measured. Unless indicated otherwise, frequency weighting according to the A-weighting scale is understood to be applicable.

SOUND PRESSURE LEVEL: The quantity in decibels measured by a sound level meter satisfying the requirements of the American National Standards Specification of Sound Level Meters, S1.4-1971 according to a frequency-weighted decibel scale. Decibels shall mean 20 times the logarithm to the base ten of the ratio of the root mean squared pressure of a sound to reference pressure of 20 micropascals. DB shall mean the standard abbreviation for decibels. Frequency-weighting of the sound pressure level is obtained with the standardized dynamic characteristic “fast” or “slow” and weighting A, B, or C; unless indicated otherwise, the A-weighting is understood to be applicable. dBA shall mean the standard abbreviation for the A-weighted sound pressure level in decibels.

SPECIAL USE: A use of land which requires a review and approval of the Planning Board prior to the issuance of a special use approval or zoning permit by the Zoning Officer.

SPECIAL USE PERMIT: An approval for special uses by the Planning Board, granting permission to the Zoning Officer to issue a zoning permit.

STRUCTURE: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. The term includes dwelling units, buildings, swimming pools, platforms, stadiums, towers, billboards, and signs, but is not intended to include conventional sidewalks, driveways, curbs, fences, chimneys, hedges, or walls.

TOTAL HEIGHT: The height of the tower and the furthest vertical extension of the blades.

TOURIST ACCOMMODATIONS: Any permanent building or part thereof, which is used or occupied for the overnight accommodation of transient guests; and for which compensation is given. The term does not include hotels, motels, and campgrounds.

TOWER: Any structure that is quite high, compared to its lateral dimensions and usually constructed for a singular or specific purpose (i.e. radio tower).

TRAILER: See definition for mobile homes.

VARIANCE: Any departure from the strict letter of this Law granted by the Zoning Board of Appeals as it applied to a particular piece of property.

WALL/FENCE: See fence/wall

WASTE MATTER: Any refuse, rubbish, waste matter, litter, garbage, decomposable or organic matter, putrescible matter, carcass, sewage, excrement, sludge slops, hazardous liquids or substances (as per State Environmental Conservation Law), ashes, tin cans, crates, boxes, or other substances or material offensive to the public or detrimental to its health, safety, and welfare by virtue of its volume or untreated nature.

WATERFRONT PROPERTY: That property which abuts a waterway or water body.

WATERFRONT LOT LINE: Along the front yards of waterfront property

the waterfront lot line shall be determined as the high water level elevation.

WATERWAY OR WATER BODY: For the purpose of this Law the Waterway or Water Bodies shall be Butterfield Lake, Clear Lake, Crystal Lake, Grass Lake, Hyde Lake, Lake-of-the-Woods, Millsite Lake, Moon Lake, Mud Lake, Muskellunge Lake, Red Lake, Sixberry Lake, and the Indian River.

WIND ENERGY FACILITY: Any Wind Energy Conversion System, Small Wind Energy Conversion System, or Wind Measurement Tower, including all related infrastructure, electrical lines and substations, access roads and accessory structures.

WIND ENERGY FACILITY SITE: The parcel(s) of land where a Wind Energy Facility is to be placed. The Site can be publicly or privately owned by an individual or a group of individuals controlling a single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements. Any lot, where the landowner has an agreement for a Wind Energy Facility to be located on the lot or has a setback agreement for a Wind Energy Facility shall be considered part of the Site.

WIND MEASUREMENT TOWER: A tower used for the measurement of meteorological data such as temperature, wind speed, and wind direction.

WIND TURBINE: A machine that converts the kinetic energy in the wind into a usable form, consisting of a tower, nacelle, blades, and associated control or conversion electronics and equipment contained within or atop the tower.

YARD: Any open space located on the same lot with a building, unoccupied and unobstructed from the ground up, except for accessory buildings, or such projections as are expressly permitted in this Ordinance. The minimum depth or width of a yard shall consist of the horizontal distance between the lot line and the nearest point of the building line.

- a. **YARD, FRONT:** The yard between the building line and the front lot line and extending the full width of the lot. For the purpose of this Law the front yard of waterfront property shall be the yard between the front building line and waterfront lot line. If a lot adjoins two or more roads, it shall be deemed to have a front yard respectfully on each.
- b. **YARD, REAR:** The yard between the rear building line and the rear

lot line and extending the full width of the lot. For the purpose of this Law the rear yard of waterfront property shall be the yard between the rear building line and the road line.

- c. **YARD, SIDE**: The space within and extending the full distance from the front yard to the rear yard and from the side lot line to that part of the building which is nearest to such side lot line.

ZONE: A term used to indicate a district or designated area.

ZONING BOARD OF APPEALS: A board appointed by the Town Board to hear and decide appeals of this Law.

ZONING OFFICER: Any person appointed by the Town Board to enforce the provisions of this Law.

ARTICLE 3. ESTABLISHMENT OF DISTRICTS

SECTION 310. TYPES OF ZONES / DISTRICTS

For the purpose of this Law, the Town of Theresa is hereby divided into the following zones or districts. (The term " zone " may be used interchangeably with "district")

AR - Agricultural - Residential

CAR- Conservational - Agricultural - Residential

BC - Business Corridor

PDD - Planned Development District

SECTION 320. ZONING MAP

The zones are shown, defined, and bounded on the Zoning Map accompanying this Law entitled "Zoning Map," dated February 10, 1999. The Zoning Map is hereby made a part of this law, and shall be on file in the office of the Town Clerk.

SECTION 330. INTERPRETATION OF ZONE BOUNDARIES

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

1. Where the designation on the Zoning Map indicates a boundary approximately upon a road, a line of 225 feet from the center line of the road abutting the AR district shall be construed to be the boundary, except for the BC which is 500 feet.
2. Where the designation on the Zoning Map indicates a boundary approximately upon a lot line, such lot line shall be construed to be the boundary.
3. Distances shown on the Zoning Map are perpendicular distances from road center lines measured to the zone boundary. In all cases where distances are given, zone boundaries are parallel to the road center line.
4. In other cases the zone boundary shall be determined by the use of the scale on the Zoning Map.

SECTION 340. METES-AND-BOUNDS DESCRIPTIONS

In the event that a metes-and-bounds description has been filed for a zone change or a variance as required by this Law, such metes-and-bounds description may- be used in lieu of other provisions of this article. Survey maps are required.

SECTION 350. DIVIDED LOTS

Where a zone boundary divides a lot of record at the time such boundary is adopted, the zone 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 Montage on a road in the less restricted zone.

ARTICLE 4. ZONE REGULATIONS

SECTION 410. PERMITS

Zoning Permits are required in all districts for all proposed changes prior to construction.

SECTION 420. CREATING NEW LOTS

Planning Board approval is required for all divisions of land as specified in Town Subdivision Law.

SECTION 425. PRINCIPAL RESIDENTIAL USES PER LOT

There shall be no more than one principal residential use on a single lot. See definitions of residential and non-residential uses.

SECTION 430. ALLOWED USES

CAR DISTRICT REGULATIONS

SCHEDULE I

USE REGULATIONS ZONING PERMITS REQUIRED

PURPOSE - The primary purpose of this district is to promote agricultural, recreational, rural residential, and other open space uses and to enhance and preserve the existing natural and scenic areas of the Town.

<u>PERMITTED USES</u>	<u>PERMITTED ACCESSORY USES</u>	<u>SITE PLAN REVIEW</u>	<u>USES BY SPECIAL PERMIT</u>
Any agricultural operations, single family dwellings. Recreational vehicles, subject to Section 660.	Barns, milk sheds and other agriculturally related structures, private garages, carports, patios, swimming pools, signs, boathouses, other customarily incidental uses.	Public storage, cemetery, riding stables, kennels, home occupations, housekeeping units, and medical facilities.	Accessory apartments, campgrounds, essential facilities, excavations, public and semi-public facility, communication towers.

SECTION 440. ALLOWED USES

AR DISTRICT REGULATIONS SCHEDULE I

USE REGULATIONS ZONING PERMITS REQUIRED

PURPOSE - The primary purpose of this district is to promote agricultural and residential uses in the Town and to provide for the orderly and efficient placement of attendant commercial enterprises.

<u>PERMITTED USES</u>	<u>PERMITTED ACCESSORY USES</u>	<u>SITE PLAN REVIEW</u>	<u>USES BY SPECIAL PERMIT</u>
Single family dwellings, mobile homes. Any agricultural uses, home occupation/ business.	Private garages, swimming pools, patios, carports, signs, barns, other agriculturally related structures, storage buildings, other customarily incidental uses.	Fraternal organizations, laundries, kennels, offices, banks, grocery stores, restaurants, medical facilities, animal hospitals, and other small commercial enterprises.	ABC licensed facilities, accessory apartments, adult entertainment and services, agri-business operations, auto service stations, building supply operations, commercial junkyards, communications towers , construction equipment, drive-in use, essential facilities, excavation facilities, fuel storage tanks, land fills, large commercial enterprises, light industry operations, mobile home parks, mobile home sales operations, motels, motor vehicle, recreational, and marine sales and services, motor vehicle repair shop, multiple family dwellings, planned unit developments, public and semi-public facilities, recreational facility, riding stables, shopping centers

SECTION 450. ALLOWED USES

BC DISTRICT REGULATIONS SCHEDULE I

USE REGULATIONS ZONING PERMITS REQUIRED

PURPOSE - The primary purpose of this district is to provide for the orderly and efficient placement of commercial enterprises.

PERMITTED USES

Single family dwellings. Any agricultural uses, home occupation/business.

PERMITTED ACCESSORY USES

Private garages, swimming pools, patios, carports, signs, barns, other agriculturally related structures, storage buildings, other customarily incidental uses.

SITE PLAN REVIEW

Fraternal organizations, laundries, kennels, offices, banks, grocery stores, restaurants, medical facilities, animal hospitals, and other small commercial enterprises.

USES BY SPECIAL PERMIT

ABC licensed facilities, accessory apartment, agri-business operations, auto service stations, billboards, building supply operations, communications towers, construction equipment, drive-in use, essential facilities, excavation facilities, fuel storage tanks, large commercial enterprises, light industry operations, mobile home sales operations, motels, motor vehicle, recreational, and marine sales and services, motor vehicle repair shop, multiple family dwellings, planned unit developments, public and semi-public facilities, recreational facility, riding stables, shopping centers.

**DISTRICT REGULATIONS
SCHEDULE II
LOT DIMENSIONS**

DISTRICT 7 USES	Min. Lot Area	Min. Lot Width	Min. Front Yard.	Min. Rear Yard.	Min. Side Yard (each)
Conservational, Agricultural, Recreational District - CAR Permitted Uses	30,000 sq. ft.	150 ft.	30 ft.	50 ft.	20 ft..
Accessory Uses			30 ft.	30 ft.	15 ft.
Other Permitted Special Uses	30,000 sq. ft.	150 ft.	30 ft.	50 ft.	30 ft.
Livestock Structure				100 ft.	100 ft.
<hr/>					
Agricultural Residential District AR Permitted Uses:	30,000 sq. ft.	150 ft.	30 ft.	30 ft.	15 ft.
Other Permitted Site plan and Uses by Special Permit:	15,000 sq. ft.	100 ft.	30 ft.	30 ft.	15 ft.
Permitted Accessory Uses:			30 ft.	10 ft.	15 ft.
Livestock Structure				100 ft.	100 ft.

Note: Dimensional Regulations for Site Plan uses are addressed
in Article IV, Section 8 and 9.

Excluding Boathouses

ARTICLE 5. PLANNED DEVELOPMENT DISTRICT

SECTION 510. GENERAL INTENT AND OBJECTIVES

From time to time, Planned Development Districts may be established in the Town and designed as specific locations on the Town of Theresa Zoning Map. The purpose for establishing such Districts is to allow compatible development of a variety of uses (e. g. residential, commercial, recreational, historical, etc.) and to vary the strict application of these Regulations.

It is the intent of this Planned Development District (PDD) Section to provide flexible land use and design regulations through the use of performance criteria so that small-to-large scale neighborhoods or portions thereof may be developed within the Town that incorporate a variety of residential types and nonresidential uses, and contain both individual building sites and common property which are planned and developed as a unit. Such a planned unit is to be designed and organized so as to be capable of satisfactory use and operation as a separate entity with out necessarily needing the participation of other building sites or other common property in order to function as a neighborhood. This Section specifically encourages innovations in residential development so that the growing demands for housing at all levels may be met by greater variety in type, design, and siting of dwellings and by the conservation and more efficient use of land in such a development. Planned Developments do not require a mix of residential and nonresidential uses to be considered for Planned Development District status.

This Section recognizes that while the standard land use functions (use and bulk) are appropriate for the regulation of land in some areas of neighborhoods, these controls represent a type of regulatory strictness which may be detrimental to the innovative techniques of quality land development contained in the Planned Development District concept. Further, this Section recognizes that a rigid set of space requirements along with bulk and use specifications would frustrate the application of this concept. Thus, where PDD techniques are deemed appropriate through the rezoning of land to a Planned Development District by the Town Board, the use and dimensional specifications found elsewhere in these regulations are herein replaced by an approval process based upon the performance criteria outlined in Article 12, Site Plan Review and Section 520, and as prescribed by the Planning Board.

SECTION 520. GENERAL REQUIREMENTS AND SITE PLAN REVIEW CRITERIA FOR THE PLANNED DEVELOPMENT DISTRICT

Requirements for consideration as a PDD: Following are a list of the requirements that a proposal must meet to be considered for PDD status.

1. Minimum area: The district must comprise at least fifteen 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. Location of PDD: The PDD shall be applicable to any area of the Town where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this Article.
4. Application Requirements: All specifics concerning uses (such as Schedule I) must be presented, including but not limited to sizes, heights, percentage of lot coverage and setbacks (like Schedule II) Note any special requirements for these uses.
5. Common property in the PDD: Common property is not required to be considered for PDD status, however, it is often characteristic of such proposals. Common property in a PDD is a parcel or parcels of land, with or without the improvements therein, 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 street, drives, service and parking areas, and recreational and open space areas.
7. Prohibited Uses: Junk yards, mobile homes.

SECTION 530. PROCEDURE

The following are procedural steps that shall be followed when applying for PDD status.

- A. In order to establish Planned Development Districts, these Land Use Regulations must be amended by the following procedures outlined herein and the prescribed regulations of amendments to this Law found in Article III, Section 6.
- B. Application for establishment of a Planned Development District shall be made to the Town Board by the owner(s) of property proposed to be included in the District. The Town Board shall refer such application to the Planning Board for consideration within seven (7) working days of receipt of such an application.
- C. Within fourteen (14) days following referral, the applicant must provide a development plan and detailed program which would enable the Planning Board to evaluate the proposed development and its effects on nearby land uses and public services. Such a plan and program must consist of the application requirements of Article 12, and this Section. Once this information is submitted, the Planning Board shall review the proposal in light of the requirements of Article 12 and this Section. However, the site plan review procedural requirements, other than the application criteria, of Article 12 shall not be followed when creating a new PDD; rather the procedural outlined herein shall be followed.
- D. The Planning Board shall discuss the proposal with the applicant at a regular meeting of the Board up to sixty-two (62) days of the submission of the required information by the applicant. Within sixty-two (62) working days of such a meeting, the Board shall recommend approval, approval with modifications and conditions, or disapprove of such an application and then report these recommendations to the Town Board. The Planning Board will base this decision upon the development's ability to meet the Site Plan Review standards established under Article 12.
- E. In determining its recommendations on the proposed development, the Planning Board must consider, where appropriate, the need for the proposed

location; its consistency with the Town Development Plan; and the existing character of the neighborhood in which the use would be located. It also must consider the safeguards to minimize possible detrimental effects of the proposed use on the adjacent properties, on public services and on the historic character of the area. Planning Board shall act as lead agency for SEQR Review.

- F. It shall be the authority of the Planning Board to prescribe conditions for the proposed use and make a recommendation for PDD status based upon this. It is the Town Board's authority to review this PDD status recommendation (from the Planning Board) and enact or disapprove an amendment thereon. Within forty-five (45) days of receipt of the recommendations, the Town Board shall, following public notice provided by this Law hold a public hearing on the proposal; and must then deny, approve or approve with modifications this proposal within 45 days of the close of the public hearing.
- G. 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 these regulations.
- H. In order to exceed any of the above time frames for adoption of a PDD there must be agreement by both the applicant and the Town Board.
- I. Any development in a PDD shall require Site Plan review by the Planning Board (see Article 12).
- J. The Town Board shall refer all PDD review matters that fall within the requirements of the General Municipal Law, Article 12 B Section 239 M to the Jefferson County Planning Board prior to the Town Board vote.

PD DISTRICT REGULATIONS SCHEDULE I

USE REGULATIONS ZONING PERMITS REQUIRED

PURPOSE - The primary purpose of this district is to promote flexibility of design and use relating especially to those areas of the Town that present unique development limitations.

ARTICLE 6. GENERAL REGULATIONS

SECTION 610. LINE - OF - SIGHT FOR TRAFFIC SAFETY

No accessory structure, fence, wall, or hedge shall be erected in such a manner as to confuse or obstruct the views of any traffic sign, signal, or device, or obstruct the visibility of vehicles entering, exiting, or traveling on the highways.

SECTION 615. HEIGHT OF STRUCTURES

- A. No structure shall exceed 40 feet in height except agricultural structures, chimneys, communication transmission towers, television and radio masts and antennas, water tanks, spires, and windmills.
- B. Structures exceeding 40 feet in height shall be allowed only upon special use approval. Such approval shall not be granted until the applicant has demonstrated the following:
 - 1. that there is 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. that the height of the structure is the minimum necessary to accomplish its intended purpose;
 - 3. that all practical means have been used to minimize any negative aesthetic impacts;
 - 4. that the structure does not significantly impair solar access to buildings or solar energy systems equipment.
- C. Towers must be centered on land with a radius equal to the height of the tower plus 20 feet.

SECTION 620. ALTERATIONS

Alterations shall comply with all requirements of this Law, regardless of whether or not they require a permit pursuant to this Law.

SECTION 625. ACCESSORY APARTMENTS

- A. No more than one accessory apartment shall be allowed for each single-family dwelling unit.
- B. Each accessory apartment shall be a maximum of 500 square feet.

SECTION 630. ACCESSORY USES AND STRUCTURES

Accessory uses and structures shall comply with all requirements for principal uses and structures as set forth in this Law, regardless of whether or not they require a permit pursuant to this Law.

SECTION 635. SWIMMING POOLS

Swimming pools are permitted structures in all districts and may be located within a required side or rear yard. However, swimming pools shall:

- A. Be no closer than fifteen (15) feet to a lot line or road line.
- B. Be enclosed by a fence or otherwise comply with the NYS Building Code.

SECTION 640. HOME OCCUPATION/BUSINESS

Home business shall comply with the following:

- A. All business activities shall be carried on wholly within the principal building or within a building or other structure accessory thereto.
- B. There shall be no more than three employees per residence.
- C. There shall be no exterior display, nor any more than one exterior sign of not more than eight square feet, no exterior unscreened storage of materials or waste products, and no other exterior indication of variation from the residential character of the principal building.
- D. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.
- E. No more than two customer vehicles shall be at the premises at a single time.

SECTION 645. DEVELOPMENT IN FLOOD PLAIN

All uses and structures shall comply with the provisions of the Town of Theresa Flood Damage Prevention Law, Local Law No. 3 of 1994, as subsequently amended by Local Law No. 1 of 1987.

SECTION 650. LIVESTOCK/FARM ANIMALS

- A. No livestock or farm animals shall be allowed on any lot less than six acres;
- B. All buildings or structures harboring farm animals must be at least fifty feet away from any lot line;
- C. All animal wastes, if stored on site, must be set back at least fifty feet from any lot line;
- D. Any existing animal waste within fifty feet of a lot line may not be added to.

SECTION 655. MOBILE HOMES

- A. Age Requirements: To insure that all mobile homes meet minimum federal standards, every mobile home shall bear a data plate, affixed by the manufacturing facility, bearing not less than the following:
 - 1. The statement "this mobile home is designed to comply with the Federal Mobile Home Construction Safety Standards in force at the time of the manufacture."
 - 2. In addition, in order to insure the public safety, preserve property values, and encourage high quality development, no mobile home shall be sited in the Town that was built before June 15, 1976.
- B. Mobile Home Skirting (without permanent foundation)
 - 1. Every mobile home shall be provided with a skirt to screen space between the mobile home and the ground within sixty (60) days from arrival on site.

2. Such skirts shall be of permanent material similar to that used in the mobile home and provide a finished exterior appearance.
3. Skirting shall be placed so as to prevent the wind from circulating under the floor of the mobile home.

SECTION 660. RECREATIONAL VEHICLES

Section 660 of the Zoning Law is hereby amended and as amended restated as follows:

- A. Recreational Camper Vehicles, Travel Trailers, and Converted Buses may be parked in any District within the Town of Theresa provided they comply with the following regulations:

1. No more than 1 Recreational Camper Vehicles, Travel Trailers, or Converted Buses may be parked upon any lot at any time, except where said Recreational Camper Vehicles, Travel Trailers, or Converted Buses are housed inside an enclosed garage, are located on a sales lot, or are associated with a recreational vehicle/trailer park.

2. Recreational Camper Vehicles, Travel Trailers, and Converted Buses may be used for temporary residential purposes for no more than 30 days in any calendar year, in accordance with a zoning permit issued by the Zoning Officer each year. Recreational Vehicles are required to be licensed, and inspected annually. Fees for such permits shall be established by resolution of the Town Board.

3. Recreational Camper Vehicles, Travel Trailers, and Converted Buses shall be parked only in driveways and other regular parking areas appurtenant to the regular dwelling or structure. Such vehicles and trailers shall comply with all relevant setback and yard requirements of the district in which they are located when in use.

4. Sewage disposal from such vehicles and trailers shall be disposed of in an environmentally acceptable manner (i.e. by temporary connection to an approved septic system, by storage tank(s) to be pumped out at an approved disposal station, or by approved self-contained maceration and incineration system) in accordance with the regulations of the New York State Department of Health.

SECTION 665. BOAT HOUSES

A. Boathouses are not required to meet front or rear setbacks from the waterfront lot line.

B. Boathouses shall meet sideyard setbacks.

C. Boathouses shall receive NYSDEC and Army Corps of Engineers permits.

SECTION 670. WATER FRONTAGE FUNNELING

No residential development of land shall allow access to a lake, stream, or river unless such access to the lake, stream, or river is supported by a minimum of 150 feet of Montage on the lake, stream, or river per dwelling unit.

SECTION 675. FENCES

1. No fence shall be more than six (6) feet in height.

2. Fences located within twenty five feet (25') of the edge of the road (paved or graveled surface) shall not be more than three feet (3') in height, and shall be at least fifty percent (50%) transparent. Examples include, but are not limited to, wrought iron, split rail or picket fences.

3. Chain link fences are prohibited in the front yard unless a special permit is obtained from the Planning Board.

4. On corner and other lots, fences shall be no more than three (3) feet on both street sides provided if located within twenty (20) feet of the street lot line shall have the same restrictions as fences located in the front yard.

5. The side of the fence facing away from the fence owner's property shall have a finished quality.
6. Electric fences shall not be allowed in any District, except for agricultural users.
7. Barbed wire fences shall not be allowed except on top of chain link fences at least six (6) feet in height, except for agricultural uses. In such cases, the total fence height with barbed wire may exceed six (6) feet in height.
8. Fences shall be setback at least eighteen (18) inches from lot-lines.

ARTICLE 7. WIND ENERGY FACILITIES

SECTION 700. APPLICABILITY

- A. Wind Energy Facilities are required to obtain a special use permit from the Planning Board.
- B. No WECS shall be constructed, reconstructed, modified, or operated in the Town except in compliance with this Local Law.
- C. Exemptions: No permit or other approval shall be required under this Local Law for mechanical, non-electrical WECS utilized solely for agricultural operations, commonly referred to as “windmills”.
- D. Notwithstanding the requirements of this Section, replacement in kind or modification of a Wind Energy Facility may occur without Planning Board approval when:
 - 1. there will be no increase in Total Height;
 - 2. no change in the location of the wind turbines;
 - 3. no additional lighting or change in facility color; and
 - 4. no increase in noise produced by the Wind Energy Facility.

SECTION 710. COMMERCIAL WIND ENERGY CONVERSION SYSTEMS.

A. Applications for Wind Energy Conversion Systems

A complete special use permit application for a Commercial WECS shall include the following materials unless specifically waived by the Planning Board. Such information shall be in addition to and not instead of any information required by the Town of Theresa, under any related Local Law or Ordinance, including but not limited to the Town of Theresa Zoning Ordinance.

Ten copies of the application shall be submitted to the Town Zoning, payment of all applications shall be made at the time of the application submission. If any waivers are requested, waiver application fees, if any, shall be paid at the time of receipt of the application. In addition, the applicant shall provide the Planning Board additional copies necessary to coordinate the review with involved agencies pursuant to SEQRA.

1. Name, address, telephone number of the applicant. If an agent represents the applicant, the application shall include the name, address, and telephone number of the agent as well as an original signature of the applicant authorizing the representation.
2. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.
3. Address, or other property identification, of each proposed tower location, including Tax Map section, block, and lot number.
4. A description of the project, including the number and maximum rated capacity of each WECS.
5. A site plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe the following:
 - a. Lot lines and physical dimensions of the WEF Site
 - b. Location, approximate dimensions and types of major existing structures and used on the WEF Site, public roads, and adjoining properties within five hundred (500) feet of the boundaries of the proposed WEFS Site.
 - c. Location and elevation of each proposed WECS.
 - d. Location of all above ground utility lines on the WEF Site or within one radius of the Total Height of the WECS, transformers, power lines, interconnection point with transmission lines, and other ancillary facilities or structures.
 - e. Location and size of structures above 35 feet within a five-hundred-foot radius of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open lattice towers are not considered structures.

- f. To demonstrate compliance with the setback requirements of this Article, circles drawn around each proposed tower location equal to one thousand two hundred fifty (1,250) feet.
 - g. Location of each residential structure, both on the WEF Site and off the WEF Site, that is located within two thousand five hundred (2,500) feet from the nearest individual wind turbine, as well as the specific distance from the nearest individual wind turbine to each residential structure.
 - h. All proposed facilities, including access roads, electrical lines, substations, storage or maintenance units, and fencing.
 - i. A visual analysis and photo simulations of the wind turbines.
- 6. Vertical drawing of the wind turbines showing Total Height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs, and access doors. One drawing may be submitted for each wind turbine of the same type and Total Height.
- 7. Landscaping Plan depicting existing vegetation and describing any areas to be cleared and the specimens proposed to be added, identified by species and size of specimen at installation and their locations.
- 8. Lighting Plan showing any FAA-required lighting as well as all other proposed lighting. The application should include a copy of any determination by the Federal Aviation Administration to establish required markings and/or lights for each structure that is part of the facility, but if such determination is not available at the time of the application, no building permit for any lighted facility may be issued until such determination is submitted.
- 9. List of property owners, with their mailing address, within 500 feet of the lot lines of the proposed Site.
- 10. Decommissioning Plan: The applicant shall submit a decommissioning plan, which shall include the following information at a minimum:
 - a. the anticipated life of the Commercial WECS ;
 - b. the estimated decommission costs in current dollars;

- c. how said estimate was determined;
 - d. the method of ensuring that funds will be available for decommissioning and restoration;
 - e. the method, such as by annual re-estimate-by a licensed engineer, that the decommissioning cost will be kept current; and
 - f. the manner in which the Commercial WECS will be decommissioned and the WEF Site restored, which shall include at a minimum, the removal of all structures and debris to a depth of 3 feet, restoration of the soil, and restoration of vegetation (consistent and compatible with surrounding vegetation), less any fencing or residual minor improvements requested by the landowner.
11. Complaint Resolution: The application will include a complaint resolution process to address complaints from any resident or property owner. The process in addition to the avenues available under this Law (Section 1665, 1670), shall as a condition precedent to arbitration use an independent mediator to attempt to resolve the complaint, and include a time limit for acting on a complaint. The applicant shall make every reasonable effort to resolve any complaint through mediation. The process will be subject to the rules of the American Arbitration Association. In the event the matter is not resolved in mediation, it shall be subject to binding arbitration under the rules of the American Arbitration Association. The applicant shall pay all fees and charges for the Arbitration unless there is a finding by the Arbitrators for absolute no-fault on the part of the applicant. In the event of a ruling in favor of the complaining party, the arbitrators' award may include attorneys' fees and other costs.
12. An application shall include at a minimum, the following information relating to the construction/installation of the Commercial Wind energy Conversion System:
- a. a construction schedule describing commencement and completion dates; and
 - b. a description of the routes to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles.
13. Applications for Wind Measurement Towers subject to this Local Law may be jointly submitted with the Commercial WECS application.

14. For each proposed Commercial WECS, include make, model, picture and manufacturer's specifications, including noise decibels data. Include Manufacturers' Material Safety Data Sheet documentation for the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
15. Completed Part I of the Full Environmental Assessment Form.
16. If the applicant agrees in writing in the application that the proposed Commercial WECS may have a significant adverse impact on the environment it may submit a Draft Environmental Impact Statement ("DEIS"), and the Planning Board shall issue a positive declaration of environmental significance.
17. The applicant, either with the application, or, in the event of a positive declaration under SEQRA, as part of any DEIS submitted by the applicant with respect to the application for a Zoning Permit shall submit such studies as the Planning Board reasonably determines to be necessary. Such Studies shall be conducted by a qualified consultant as to each of the identified impacts or potential impacts, which study or studies shall include, at a minimum, a detailed analysis of the existing conditions, any potential adverse impacts, and the measures to be taken by the applicant mitigate or eliminate such impacts.
18. In addition to the materials required in accordance with this section, complete applications should include any additional study or assessment determined to be required by the lead agency during the review of the project pursuant to SEQEA. No application shall be determined to be complete until a final environmental finding has been made.
19. The application shall, prior to the receipt of a Zoning Permit, provide proof that it has executed an Interconnection Agreement with the New York Independent System Operator and the applicable Transmission Owner.
20. A statement, signed under penalty of perjury, that the information contained in the application is true and accurate.

B. Application Review Process for Commercial Wind Energy Conversion Systems

1. Pre-Submission Meeting

Applicants may request a pre-submission meeting with the Planning Board or with any consultants retained by the Planning Board for application review. Meetings with the Planning Board shall be conducted in accordance with the Open Meetings Law. This meeting may be used to discuss rough conceptual drawings, proposed uses, the possible waiver of submission requirements the review procedure and the criteria that the project must meet.

2. Waiver of Requirements

The Planning Board is empowered to waive, when reasonable, any application requirements for the approval, approval with modifications or disapproval of site plans or special use permits submitted for approval. Such waiver may be exercised in the event requirements are found not to be requisite in the interest of the public health, safety or general welfare and in appropriate to a particular site plan or special use permit. The reasons for, and the scope of any such waiver granted by the Planning Board shall be in writing and entered into the minutes of the Board.

3. Complete Application

The Planning Board shall, within 30 days of receipt, or such longer time if agreed to by the applicant, determine if all information required under this Article is included in the application, unless the Planning Board waives any application requirement, no application shall be considered complete and ready for final action until deemed complete and until either a negative declaration is issued under SEQRA, or, a Final Environmental Impact Statement and SEQRA Findings are issued by the lead agency.

If the application is deemed incomplete, the Planning Board shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the number of wind turbines proposed is increased.

4. Escrow Agreement

The Planning Board may, in its discretion, require an escrow agreement for normal and customary engineering and legal review of the applications and any environmental impact statements before commencing its review. At the completion of the SEQRA review process, if a positive declaration of environmental significance has been issued and an environmental impact statement prepared, the Planning board shall issue a “statement of Findings,” which may also serve as the Planning Board’s decision on the applications.

5. Public Hearing

Once a completed application has been formally accepted by the Planning Board at a public meeting of the Board, the board shall have a maximum of sixty-two (62) days to hold a public hearing on the application to entertain public comment. This time period may be extended upon the mutual consent of the Planning Board and the applicant.

6. Public Hearing Notice

Notice shall be provided by first class mail to property owners within 500 feet of the lot lines of the proposed Commercial WECSs and published in the Town’s official newspaper, no less than ten (10) nor more than twenty (20) days before any hearing, but where any hearing is adjourned by the Planning Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing prepared by the Planning Board and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses. The public hearing may be combined with any other public hearing required, including public hearings held pursuant to SEQRA.

7. County Planning Board Review

Pursuant to General Municipal Law Section 239-m, at least ten (10) days before the hearing, or where the hearing has been waived, before final action, the Planning Board shall refer all site plan reviews or special use permits to the County Planning Board that fall within in five hundred (500) feet of the following:

- a. the boundary of the town/village of any village within the town;

- b. a state or county park or recreation area;
- c. a state or county highway or expressway;
- d. a state or county owned drainage channel;
- e. state or county land where a public building or institution is located;
or
- f. the boundary line of a farm operation located within an agricultural district.

If the County Planning Board does not respond within thirty (30) days from the time it received a full statement on the referral matter, then the Planning Board may act without such report. However, any County Planning Board report received after such thirty (30) days but two or more days prior to final action by the referring body, shall be subject to the provisions of an extraordinary vote upon recommendation of modification or disapproval. If the County Planning Board recommends modification or disapproval of a proposed action, the referring board shall not act contrary to such recommendation except by a vote of a majority plus one of all the members.

8. State Environmental Quality Review

Applications for Commercial WECS shall be deemed Type I projects under SEQRA. The Planning Board may be responsible for the review of the proposed project under SEQRA, and may, where appropriate, act as lead agency under SEQRA and shall coordinate its review with all other involved agencies in accordance with the requirements of 6 NYCRR Part 617 (State Environmental Quality Review Act regulations).

9. Final Decision

The final decision by the Planning Board must be made within sixty-two (62) days following the close of the public hearing, or where the public hearing has been waived, within sixty-two (62) days of the official submission date. The decision shall be in writing, specifying any conditions that may be attached to an approval, the reasons that the Planning Board approved, approved with modifications or disapproved the proposal, and the motions/vote of the Planning Board. This time period may also be extended upon the mutual consent of the Planning Board and the applicant.

10. Filing of Decision

All decisions shall be filed in the office of the town/village clerk within five (5) business days of final action, and a copy mailed to the applicant. Within thirty (30) days of final action on any matter referred to the County Planning Board, the Planning Board shall file a report of the final action with the County Planning Board.

11. Conditions on Approval

In its approval, the Planning 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 a proposed site plan. Upon approval of the project, any such conditions must be met in connection with the issuance of permits by the Town Enforcement Officer.

12. Area Variance

Notwithstanding any provisions of law to the contrary, where a proposed project contains one or more dimensional or physical features which do not comply with the zoning law, application may be made to the Zoning Board of Appeals for an area variance without the necessity for a decision or determination of the enforcement officer.

13. Expiration of Special Use Permit

A special use permit for a Commercial Wind Energy System shall expire one (1) year from the date of issue unless substantial progress has been made towards carrying out the terms of the Planning Board decision.

C. Development Standards for Commercial WECS

The following standards shall apply to all WECS, unless specifically waived by the Planning Board:

1. All power transmission lines from the tower to any building or other structure shall be located underground to the maximum extent practicable.

2. No television, radio, or other communication antennas may be affixed or otherwise made part of any Commercial WECS.
3. In order to minimize any visual impacts associated with Commercial WECS, no advertising signs are allowed on any part of the Commercial WECS, including fencing and support structures.
4. Lighting of tower. No tower shall be lit except to comply with FAA requirements. Written verification of lighting requirements for Commercial WECS from FAA is required. Minimum-security lighting for ground level facilities shall be allowed as approved on the Commercial WECS development plan.
5. All applicants shall use measures to reduce the visual impact of Commercial WECS to the extent possible. Commercial WECS shall use tubular towers. All structures in a project shall be finished in a single, non-reflective matte finished white or gray in color. Commercial WECS consists of wind turbines whose appearance, with respect to one another, is similar within and throughout the Project, to provide reasonable uniformity in overall size, geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.
6. The use of guy wires is disfavored. A Commercial WECS using guy wires for tower support shall incorporate appropriate measures to protect the guy wires from damage, which could cause tower failure.
7. No Commercial WECS shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems can be reasonably expected to produce electromagnetic interference with signal transmission or reception. No Commercial WECS shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation. If it is determined that a Commercial WECS is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference.
8. All solid waste and hazardous waste and construction debris shall be removed from the Site and managed in a manner consistent with all appropriate rules and regulations.
9. Commercial WECSs shall be designed to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided. The use of previously developed areas will be given priority wherever possible. All top-soil disturbed during

construction, reconstruction or modification of Commercial WECS shall be stockpiled and returned to the site upon completion of the activity which disturbed the soil.

10. Commercial WECS shall be located in a manner that minimizes significant negative impacts on rare animal species in the vicinity.
11. Commercial Wind Energy Conversion Systems shall be located in a manner consistent with all applicable State and Federal wetlands laws and regulations.
12. Storm-water run-off and erosion control shall be managed in a manner consistent with all applicable State and Federal laws and regulations.
13. The maximum total height of any wind turbine within a Commercial WECS shall be five hundred (500) feet.
14. The substation used in conjunction with a WECS shall be sited in a manner that will have the least intrusive impact upon adjacent residences and shall be sheltered and or screened with a physical barrier and/or vegetation in a manner to eliminate its views from such residences. The Planning Board shall assess such siting in accordance with the requirements of this Local Law.
15. In processing any application for a Commercial WECS or in reviewing such project under SEQRA, the Planning Board shall consider any applicable policy or guidelines issued by the New York State DEC (i.e., visual impacts, noise impacts).
16. If it is determined that a Commercial WECS is causing stray voltage issues, the operator shall take the necessary corrective action to eliminate these problems including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy stray voltage issues is grounds for revocation of the Zoning Permit for the specific Commercial WECS causing the problems.
17. Turbine blades shall pass no closer than thirty (30) feet to the ground during operation of the facility.
18. To the greatest extent possible WECS, together with all above ground facilities, underground cables and wires, and all permanent access roads shall be positioned along existing fence lines, hedge rows or tree rows and/or as near the edge of any fields as possible to minimize disruption to pasture land or tillable land. Following construction, the site shall be graded and seeded and restored to its preconstruction condition or better. During construction, the developer shall be required to act consistent with best agricultural practices to insure the post construction integrity of the site. The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for wind power projects shall be adhered to, both inside and outside of agricultural districts.

D. Required Safety Measures for Commercial WECS

1. Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.
2. If the participating contiguous property owner submits a written request that fencing be required then the Planning Board shall review what nature or type of fence is required, if any. The color and type of fencing for each wind turbine installation shall be determined on the basis of individual applications as safety needs dictate. Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. A sign shall be posted on the entry area of the fence around each tower or group of towers and any building (or on the tower or building if there is no fence), containing emergency, contact information. The Planning Board may require additional signs based on safety needs.
3. No climbing pegs or tower ladders shall be located closer than twelve (12) feet to the ground level at the base of the structure for freestanding single pole or guyed towers.
4. Each wind turbine shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked at all times.
5. Existing snowmobile and/or ATV trails shall be posted to warn of potential ice throw dangers from the Commercial WECS.
6. Copies of all reports concerning operating and safety inspections for each Commercial WECS shall be filed with the Town Clerk.

E. Traffic Routes

1. Construction of Commercial WECS pose potential risks because of the large size construction vehicles and their impact on traffic safety and their physical impact on local roads. Special Use Permit conditions may limit Commercial WECS-related traffic to specified routes and include a plan for disseminating traffic route information to the public. Factors in establishing such routes shall include:

- a. minimizing traffic impacts from construction and delivery vehicles, including impacts on local residential areas;
 - b. minimizing WECS related traffic during times of school bus activity;
 - c. minimizing wear and tear on local roads; and
 - d. minimizing impacts on local business operations.
2. The Applicant shall demonstrate that it has entered into an agreement with the Town of Theresa and/or County of Jefferson relative to the use of roads.
3. The applicant is responsible for repair of all damages to Town Roads occurring during the construction or maintenance of a Commercial WECS in accordance with its agreement with the Town.

F. Noise Standards for Wind Energy Conversion Systems

1. The Sound Level statistical sound pressure level (L)(10) due to any Commercial WECS operation shall not exceed ambient noise levels (exclusion of the development proposed) by more than 5 dBA at the nearest lot line.
2. Any Sound level falling between two whole decibels shall be the lower of the two.

G. Setbacks for Commercial WECS

Structures and wind turbines for Commercial WECS shall be set back from lot lines, measured from the center of the applicable component part of the Commercial WECS the following minimum distances:

1. 1250 feet from off site lot lines;
2. 800 feet minimum from the high water mark in any river or lake.

H. Noise and Setback Easements for Commercial WECS

In the event a Commercial WECS does exceed sound established in this Local Law as it existed at the time the Zoning Permit is granted, a waiver will be granted from such requirement by the Planning Board in the following circumstances:

1. Written consent from the affected property owners has been obtained stating that they are aware of the Commercial WECS and the noise and/or setback limitations imposed by this Local Law, and that consent is granted to allow noise levels to exceed the maximum limits otherwise allowed; and
2. In order to advise all subsequent owners of the burdened property, the consent, in the form required for an easement, has been recorded in the County Clerk's Office describing the benefited and burdened properties. Such easements shall be permanent and shall state that they may not be revoked without the consent of the Planning Board, which consent shall be granted upon either the completion of the decommissioning of the benefited Commercial WECS in accordance with this Article, or the acquisition of the burdened parcel by the owner of the benefited parcel or the Commercial WECS.
3. Waivers granted under this Section differ from waiver requests under Article V of this Local Law in that no Article V waiver is required if a waiver is given under this Section, and an Article V waiver must be sought rather than a waiver under this Section if the adjoining property owner will not grant an easement pursuant to this Section.

I. Abatement

1. If any Commercial WECS remains non-functional or in operative for a continuous period of one (1) year, the applicant agrees that, without any further action by the Planning Board, the Commercial WECS shall be decommissioned and removed at his own expense. Removal of the system shall include at a minimum the removal of the entire above ground structure, including transmission equipment and fencing, from the lot. This provision shall not apply if the applicant demonstrates to the Planning Board or Town Board that it has been making good faith efforts to restore the WECS to an operable condition, but nothing in this provision shall limit the Town's ability to order a remedial action plan after a public hearing.
2. Decommissioning Bond / Fund Plan – The applicant, or successors, shall provide a continuously maintained fund or bond payable to the Town of

Theresa in a form approved by the Town Attorney, for the removal of non-functional towers and appurtenant facilities, in an amount to be determined by the Town Board, for the period of the life of the facility or other plan acceptable to the Town Board. This fund or plan may consist of a letter of credit from a State of New York licensed-financial institution. All costs of the financial security shall be borne by the applicant. All decommissioning

funding requirements shall be met prior to commencement of construction.

J. Permit Revocation

Operation – A Commercial WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a Commercial WECS become inoperable, or should any part of the Commercial WECS be damaged, or should a Commercial WECS violate a permit condition, the owner or operator shall remedy the situation within 180 days after written notice from the Town Zoning Enforcement Officer, to correct any deficiency. The Planning Board may extend the 180-day period for good cause shown.

Section 720 - Wind Measurement Towers

Wind site assessment is typically conducted using Wind Measurement Towers (anemometer towers) to determine the wind speeds and the feasibility of using particular Sites.

No Wind Measurement Tower shall be constructed, reconstructed, modified, or operated in the Town except pursuant to a Special Use Permit issued pursuant to Article 13 of this Local Law.

A. Applications for Wind Measurement Towers

An application for a Wind Measurement Tower shall include:

1. Name, address, telephone number of the applicant. If an agent represents the applicant, the application shall include the name, address, and telephone number of the agent as well as an original signature of the applicant authorizing the representation.

2. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that their property owner is familiar with the proposed applications(s) and (ii) authorizing the submission of the application.
3. Address of each proposed tower location, including Tax Map section, block, and lot number.
4. A site plan showing the location of the proposed Wind Measurement Towers, lot lines, proposed and existing structures, setbacks from lot lines and access driveway.
5. Decommissioning Plan, including a security bond for removal.
6. SEQR Short or Long EAF.

B. Standards for Wind Measurement Towers

1. The distance between a Wind Measurement Tower and the lot line shall be at least one and a half times the Total Height of the tower. Sites can include more than one piece of property and the requirement shall apply to the combined properties. Exceptions for neighboring property are also allowed with the written consent of those property owners.
2. Special Use Permits for Wind Measurement Towers may be issued for a period of up to twenty-six (26) months. Permits may be renewed if the Wind Measurement Tower is in compliance with the conditions of the Special Use Permit. Such permit may be renewed at the discretion of the Planning Board.
3. Anchor points for any guy wires for a Wind Measurement Tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be sheathed in bright orange or yellow covering from three to eight feet above the ground.
4. The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for Wind Power projects shall be adhered to for Wind Measurement Towers located on land both inside and outside New York State Certified agricultural districts.

Section 730 - Small Wind Energy Conversion Systems

A. Purpose and Intent

The intent of this is to provide standards for Small Wind Energy Conversion Systems and to protect the public health, safety, and community welfare while providing standards for Small Wind Energy Conversion Systems designed for

home, farm, and small commercial use on the same parcel, and that are primarily used to reduce consumption of utility power at that location.

No Small Wind Energy Conversion System shall be constructed, reconstructed, modified, or operated in the Town except pursuant to a Special Use Permit issued pursuant to this Local Law.

B. Applications

A complete special use permit application for a Small WECS shall include:

1. Name, address, telephone number of the applicant. If the applicant will be represented by an agent, the name, address, and telephone number of the agent as well as an original signature of the applicant authorizing the agent to represent the applicant.
2. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.
3. Address of each proposed tower location, including Tax Map section, block and lot number.
4. Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.
5. A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the New York State Fire Prevention and Building Code.
6. Sufficient information demonstrating that the system will be used primarily to reduce consumption of electricity at that location.
7. Written evidence that the electric utility service provider that serves the proposed Site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan, and so states in the application, to connect the system to the electricity grid.

8. A visual analysis of the Small WECS as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicate the color treatment of the system's components, and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.
9. SEQR Short or Long EAF.

C. Development Standards

All Small Wind Energy Conversion Systems shall comply with the following standards:

1. A Small Wind Energy Conversion System shall be located on a lot a minimum of one acre in size.
2. Only one wind turbine per legal lot shall be allowed.
3. Small Wind Energy Conversion Systems shall be used primarily to reduce the on-site consumption of electricity.
4. Wind Turbine Tower must be setback two and one half (2 ½) times the height from all lot lines.
5. The maximum power output for a Small Wind Energy Conversion System is limited to one hundred (100) KW
6. The wind turbine tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize any visual disruption.
7. The Small Wind Energy Conversion System shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas.
8. Exterior lighting on any structure associated with the Small Wind Energy Conversion System shall not be allowed except that which is specifically

required by the Federal Aviation Administration. Written verification of lighting requirements for the Small WECS from the Federal Aviation Administration is required.

9. All on-site electrical wires associated with the Small Wind Energy Conversion System shall be installed underground except for “tie-ins” to a public utility company and public utility company transmission poles, towers, and lines. The Planning Board may modify the standard if the

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

10. The Small Wind Energy Conversion System shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the Small Wind Energy Conversion System operator shall promptly mitigate the harmful

interference or cease operation of the Small Wind Energy Conversion System.

11. At least one sign shall be posted on the wind turbine at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo, or advertising shall be placed or painted and the tower, rotor, generator or tail vane where it would be visible from the ground, except that a system or tower’s manufacturer’s logo may be displayed on a system generator housing in an unobtrusive manner.

12. Wind turbine towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:

- a. Tower-climbing apparatus located no closer than 12 feet from the ground
- b. A locked anti-climb device installed on the tower
- c. A locked, protective fence at least six feet in height that encloses the tower.

13. Anchor points for any guy wires for a wind turbine tower shall be located within the lot that the system is located on and not on or across any above-ground electric transmission or distribution lines, the part of the guy wires

shall be sheathed in bright orange or yellow covering from three to eight feet above the ground.

14. Construction of on-site access roadways shall be minimized. Temporary access roads utilized for initial installation shall be re-graded and re-vegetated to the pre-existing natural condition after completion of installation.
15. To prevent harmful wind turbulence from existing structures, the minimum height of the lowest part of any horizontal axis wind turbine blade shall be at least 30 feet from the ground. Modification of this standard may be made when the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.
16. All Small Wind Energy Conversion System tower structures shall be designed and constructed to be in compliance with pertinent provisions of the New York State Uniform Fire Prevention and Building Code.
17. All Small Wind Energy Conversion Systems shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacture.
18. Noise – Except during short-term events including utility outages and severe wind storms, a Small WECS shall be designed, installed, and operated so that noise generated by the system shall not exceed ambient noise levels (exclusive of the development proposed) by more than 6 dBA at the nearest lot line to any proposed Small WECS. In the event the ambient sound pressure level exceeds 50 dBA, the standard shall be ambient dBA plus a maximum of 5 dBA. Independent certification by a qualified engineer shall be provided before and after construction demonstrating compliance with this requirement.

D. Abandonment of Use

A small WECS which is not used for twelve (12) successive months, shall be deemed abandoned and shall be dismantled and removed from the lot line at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of

any zoning permit shall constitute grounds for the revocation of the permit by the Town Board.

All Small WECS shall be maintained in good condition and in accordance with all requirements of this section.

SECTION 740. FEES

A. The amount of the fees shall be established from time to time by resolution of the Town Board.

SECTION 750. INSPECTIONS

- A. Wind Energy Facilities shall not begin operation until all approvals required under this law are obtained and all required certifications are provided.
- B. Following the issuance of any approval required under this local law, the Zoning Officer shall have the right to enter onto the Site upon which a Wind Energy Facility has been placed, at reasonable times in order to inspect such facility and its compliance with this Local Law.
- C. After undertaking such inspection, the Zoning Officer or its designated representative shall provide notice of any non-compliance with the terms of this Local Law or the conditions of approval of any permit issued hereunder, and shall provide the owner or applicant with a reasonable timeframe to cure such violations, such timeframe to be determined based upon the seriousness of the violation, its impact upon public safety, and the impact of the violation upon residents of the Town.

SECTION 760. CONSTRUCTION RELATED DAMAGE

The owner of every Wind Energy Facility constructed pursuant to this law shall, to the extent practicable, repair or replace all real or personal property, public or private, damaged during the construction of such facility.

SECTION 770. CERTIFICATION

Prior to operation of any approved and constructed Wind Energy Facility, the applicant must provide a certification that the project complies with applicable codes, industry practices and conditions of approval (where applicable).

ARTICLE 8. MOBILE HOME PARKS, CAMPGROUNDS AND RECREATIONAL VEHICLES

SECTION 810. LOCATION, CONDITIONS, AND SIZE

- A. Area shall be located where orderly development 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- road 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.
- B. Area shall have generally level to gently rolling topography over an area of sufficient size to allow development in accordance with this Law without significant alteration or disturbance of existing natural features such as stands of mature trees, stream courses, shorelines, wetlands or bedrock; outcroppings.
- C. Area shall be free from adverse, unsafe or unhealthful conditions including but not limited to flooding, pending, poor drainage, erosion, slumping or other soil instability, breeding areas for insects or rodents, smoke, noise, odors, heat glare, or toxic or volatile substances.
- D. Mobile Home Parks shall be separated from Recreational Camping Vehicle Parks by a minimum distance of 250 feet.

SECTION 820. SITES

- A. Sites shall be divided (exclusive of internal roads, open space or common areas) and marked off into sites numbered consecutively, the number being conspicuously posted on each site with such number to correspond to the site shown on the site plan submitted.
- B. Sites shall be a minimum of 10,000 square feet.
- C. Sites shall have a minimum width of 100 feet.

- D. Sites shall have a minimum depth of 100 feet.
- E. All mobile homes, including expansions, extensions, or other additions thereto patios, porches, or garages, and all other structures shall satisfy the following setback 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 internal road.
 - 3. Minimum of 40 feet between adjacent mobile homes and any other structures in the mobile home park.
- F. No internal road, parking lot, recreation area or storage facility for fuels, supplies, or equipment shall be located within 50 feet of a lot line in common with adjoining property external to the mobile home park and abutting a public road.
- G. Site sizes in subsection 2 above may be reduced to 7,500 square feet, minimum, in special cases, where compensating open space or recreational space is provided equal to the reductions allowed. In such cases, the site width minimum in subsection 3 above may be reduced to 75 feet.

SECTION 825. ENTRANCES

- A. 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 park, if any.
- B. Entrances shall have a minimum width to allow reasonable turning movements of vehicles with mobile homes attached and of service or delivery vehicles.
- C. Entrances shall be located to allow safe line-of-sight distances to and from their points of intersection with the public road.

SECTION 830. ACCESS ROADS

- A. Access roads connecting public roads with internal roads shall be required in any mobile home park with 3 or more mobile homes, and at least 2 independent access roads shall be required to serve any park having 20 or

more mobile homes.

- B. All sites shall face on and be serviced by internal roads.
- C. All internal roads shall be designed, graded, leveled, and surfaced with a dust - free, all - weather, material in order to permit the safe passage of emergency and other vehicles at a speed of 15 miles per hour.
- D. Cul-de-sacs with a minimum turning radius of 90 feet shall be provided in lieu of closed end roads.
- E. All internal roads shall have a minimum 30 foot right-of-way, 20 feet of which shall be surfaced as described in subsection C above.

SECTION 840. MOBILE HOME PARK DESIGN STANDARD

- A. Easily accessible and usable open spaces shall be provided in all parks. Such open space shall have a total area equal to at least 10 percent 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.
- B. A hard surfaced pedestrian walkway of at least 4 feet in width shall be provided along and at least 5 feet from each access road between the entrance to the public highway and either the first unit or such location within the park as may be required to assure pedestrian safety.
- C. 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.
- D. Storage facilities shall be provided which shall provide 100 sq. ft. of secure storage space for each mobile home. Such facilities may be located either on each site or be a permanent structure within the park which is easily accessible to the park residents at all times.
- E. Service buildings, if provided, housing sanitation facilities and/or laundry shall be permanent structures complying with all applicable laws and statutes regulating buildings, electrical installations and plumbing and sanitation systems.

- F. Access and internal roads, driveways, walkways, storage areas, and service buildings shall be adequately lighted to allow for the safe movement of vehicles and pedestrians at night.

SECTION 845. MOBILE HOME PARK OPERATIONS

- A. The operator shall maintain an office in the immediate vicinity of the mobile home park.
- B. The operator shall operate the mobile home park in compliance with the standards set forth in this Law and shall provide adequate supervision to maintain the mobile home park, its common grounds, roads, facilities, and equipment in good repair and in a neat and sanitary condition.
- C. It is the operator's responsibility to obtain town building permits for each mobile home to be installed or replaced.
- D. A list of operator and occupant responsibilities shall be posted in the mobile home park office or made available upon request.
- E. All receptacles, including cans and dumpsters, shall be kept in a sanitary condition at all times. It shall be the responsibility of the operator to ensure that garbage and rubbish shall be collected and properly disposed of outside of the park. All areas of the park shall be maintained free from organic and inorganic material that might become a health, accident or fire hazard.
- F. The 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.
- G. Occupants shall be responsible for the maintenance of personal mobile homes and any appurtenances thereto, and shall keep all personal yard space in a neat and sanitary condition.
- H. Recreational vehicles will be allowed for residential use on a temporary basis for up to two weeks in mobile home parks.
- I. The 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 mobile home park.

J. 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.

SECTION 850. CAMPGROUND DESIGN STANDARD

See **ARTICLE 14** Section Q.

ARTICLE 9. JUNK YARDS

SECTION 905. JUNK YARD LICENSE

No person shall operate a junk yard within the Town of Theresa unless a special permit has first been issued and all necessary fees paid.

SECTION 910. JUNK YARDS

- A. 1. No junk yard shall be located within five hundred (500) feet of any adjoining lot line.
- 2. No junk yard shall be located within one thousand (1000) feet of any residential building (except that belonging to the owner of the junk yard), public park, church, educational facility, nursing home, public building or other places of public gatherings at the time of initial application.
- B. The junk yard shall be set back at least five hundred (500) feet from the right-of-way of any public highway.
- C. There must be erected and maintained, an eight (8) foot high aesthetically pleasing fence, approved by the Planning Board, adequate to prohibit the entrance of children and others into the area of the activity or business and contain within such fence, the materials dealt with by the operator of a junk yard. All the materials dealt with by the operator of a junk yard shall be kept within such fence at all times. Whenever the junk yard is not open for business, or temporarily not supervised, this fence, and any gate thereto, shall be secured or locked to prevent entry. The Planning Board may waive the requirement of fencing when topography or other natural conditions effectively prohibit the entrance of children or others and totally screen the junk yard from view.
- D. Where a junk yard is or would be visible from a public highway or from neighboring properties, the fence shall be of Planning Board approved materials sufficient to totally screen the junk yard from view. In addition, the Planning Board may require planting of evergreen trees or shrubbery between the fence and road line.
- E. A junk yard shall not be used as a dump by the public.
- F. Legally approved junk yards already established at the time of adoption of

this Law, shall be considered approved. However, no expansion of an established junk yard will be allowed without the applicant first satisfying the requirements of this section.

G. Junk yards shall be limited to 4 for the Town of Theresa.

H. All fluids shall be removed from any motorized unit and legally disposed of.

SECTION 920. JUNK YARD REVIEW

In reviewing, granting or denying special permits, the Planning Board shall take the following aesthetic and locational factors into consideration:

A. The type of road serving the use or from which the use can be seen.

B. Natural or artificial barriers protecting the use from view.

C. The nature and development of surrounding property, such as the proximity of public parks, churches, educational facilities, nursing homes, public buildings, or places of public gathering.

D. Whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy noise, odors, smoke, or of other causes.

E. The proximity of streams, lakes, wetlands, flood plains, ground water, supplies, and public water supplies.

F. The proximity of established residential or recreational areas.

G. Local drainage patterns.

H. Long-range comprehensive plans for the town.

ARTICLE 10. PARKING AND LOADING

SECTION 1010. GENERAL PARKING AND LOADING REQUIREMENTS

All uses shall provide off-road parking and loading facilities, large enough to accommodate peak use periods.

SECTION 1020. SPECIFIC PARKING REQUIREMENTS

Parking requirements for specific uses are as follows:

- A. Three (3) spaces per dwelling unit.
- B. One (1) space per every three (3) seats in places of public assembly.
- C. One (1) space per employee at places of employment.
- D. One (1) space per 100 square feet of home occupation floor area.
- E. Three (3) spaces, plus one (1) space per guest room in motels and tourist accommodations.
- F. One (1) space per 200 square feet of floor area in retail and service uses.
- G. One (1) space per vehicle or employee, plus 6 spaces per 10,000 square feet of floor area for wholesale uses or warehouses.
- H. One (1) space per fifty (50) square feet of patron space for restaurants.
- I. A minimum of three (3) spaces for parking for any use.
- J. Parking for recreational facilities shall be determined by the Planning Board.

SECTION 1030. PARKING AREA REQUIREMENTS

- A. Parking lots for places of public assembly and commercial business or industrial uses shall be at least twenty (20) feet from all lot road lines. There shall be an exit and entrance to accommodate travel concurrently. The placement of the lot shall not impede traffic safety. The lot shall not be located in a required yard except where these Regulations permit such placement.

SECTION 1040. OFF - ROAD LOADING FACILITIES

Off- road loading facilities shall be provided for each commercial or industrial establishment and shall be so arranged as not to interfere with pedestrians or motor traffic on public roads. Off road loading facilities shall be to the rear of structures where practicable, and shall otherwise be to the side of structures. An facilities shall be appropriately screened.

SECTION 1050. NON-CONFORMING PARKING AND LOADING SITUATIONS

All uses with Non-conforming parking or loading situations shall comply with the requirements of this Article if one or more of the following conditions occurs:

- A. The use changes.
- B. The use expands its gross floor area by 20 percent or more.
- C. The use is destroyed and seeks to be re-established.
- D. The use is discontinued for a period of 6 months or longer and seeks to be re-established.

ARTICLE 11. SIGNS SHALL MEET THE FOLLOWING CRITERIA

SECTION 1110. SIGNS

- A. No sign shall exceed 15 feet in height or 32 square feet in area, and be placed no closer than 5 feet to a road line or lot line.
- B. An advertising sign, excluding a farm name or other farm identification, larger than 32 square feet in area shall be considered a billboard and shall conform to setbacks and side yard requirements, as established for principle buildings. Billboards shall not be allowed within 300 feet of a residence.
- C. Signs that are a part of the building surface or flush with the surface may exceed 32 square feet in area.
- D. Signs may be placed in required yards, providing such placement does not interfere with traffic safety.
- E. All signs and billboards shall be properly maintained. That is, they shall be in good structural repair and not a safety hazard.
- F. There shall be no mechanically moving or flashing signs allowed.
- G. Illuminated signs must not cause traffic hazards to nearby highways and shall not produce glare towards residential areas. All such areas must be shielded from such direct illumination.
- H. Any business, enterprise, institution or other advertising entity that ceases operations shall remove their signs within 90 days of such cessation. One (extension of 90 days may be granted).
- I. Two temporary special event signs shall be permitted. These signs shall advertise events, activities or other similar instances that will be terminated on a set date. Yard sales, garage sales and similar on-lot sales shall be considered temporary activities and as such, signs advertising such events shall fall under the requirements of this section. No such sign shall exceed four (4) square feet in area. Such signs shall be removed at the end of the event by the sponsor of the event or those who placed the sign.

ARTICLE 12. SITE PLAN REVIEW

SECTION. 1205 AUTHORITY

The Planning Board is hereby authorized to review and approve, approve with modifications, or disapprove site plans pursuant to Town Law Section 274 - A and in accordance with the standards and procedures set forth in this Law.

SECTION. 1210 APPLICABILITY

All uses designated as requiring site plan review shall have a site plan approved by the Planning Board prior to the issuance of a zoning permit or a certificate of compliance by the Zoning Officer.

SECTION. 1215 GENERAL REVIEW CRITERIA

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

- A. 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.
- B. That the site is designed so as to be in harmony with the comprehensive plan for the community.
- C. That parking areas are adequate for the intended level of use, and arranged and screened so as to minimize negative impacts on adjacent properties.
- D. 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.
- E. That the internal circulation of the site is arranged so as to minimize impacts on the town road system.
- F. 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.

- G. 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.
- H. That signs, site lighting, and the locations of all buildings and structures are in keeping with the character of the neighborhood.
- I. That any changes to existing drainage patterns, or increased drainage due to development activity has no negative impacts on adjacent property.
- J. That proposed water supply and sewage disposal facilities are adequate.
- K. That development activity complies with all other standards and requirements of this Law.

SECTION 1220. APPLICATION

The Zoning Officer shall refer any application for a zoning permit which requires a site plan review to the Planning Board. An application for a site plan review 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.

Application for site plan review shall be made on a form prescribed by the Town. The applicant may request a pre-submission conference with the Planning Board prior to formal application submittal. This conference can be used to discuss site plan review procedure / criteria and other land use matters. The Planning Board shall honor this request.

At time of formal application, three (3) copies of the application and site plans shall be provided which shall include the following:

- A. Name and address of applicant and owner, if different, and of the person responsible for preparation of drawings.
- B. Date, north point, written and graphic scale.
- C. Boundaries of the site plotted to scale, including distances, bearings, and areas.
- D. Locator map showing the site in relationship to the town.

- E. Location and ownership of all adjacent lands as shown on the latest tax records.
- F. Location of all zone district boundaries.
- G. Location, name, and existing width of adjacent roads.
- H. Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use or adjoining the property.
- I. Complete outline of existing or proposed deed restrictions or covenants applying to the property.
- J. Existing hydrologic features together with a grading and drainage plan showing existing and proposed contours at a maximum of ten foot intervals.
- K. 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.
- L. Location and design of all parking and loading areas including access and egress drives and fire lanes and emergency access areas.
- M. Provision for pedestrian access, including public and private sidewalks.
- N. Location of outdoor storage.
- O. Location and design of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences.
- P. Description of the method of securing water supply and disposing of sewage and the location and design of such facilities.
- Q. Location and design of all energy distribution facilities, including electrical, gas, and solar energy.
- R. Location, size and design of all proposed signs.
- S. Location and design of outdoor lighting facilities.

- T. General landscaping plan and planting schedule, including the location and proposed development of all buffer areas.
- U. 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.
- V. An agricultural data statement pursuant to Town Law Section 283 - A, when applicable.
- W. 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.
- X. An Environmental Assessment Form (EAF) and, when applicable a draft Environmental Impact Statement (EIS) pursuant to 6 NYCRR Part 617.
- Y. Other elements integral to the proposed development as considered necessary by the Planning Board.

SECTION 1225. WAIVER OF SUBMISSION REQUIREMENTS

The Planning Board may waive any submission requirements listed in Section 1220 above where it deems that the information is either not applicable or is unnecessary to a particular site plan review.

SECTION 1230. ENVIRONMENTAL IMPACT REVIEW/ COUNTY PLANNING BOARD REVIEW

Applicant shall submit appropriate long or short form as determined by the Planning Board. The Planning Board shall be responsible for the completion of an Environmental Assessment Form (EAF) for each application for site plan review, as lead agency. 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. Where required, the Planning Board shall comply with SECT. 239M of the General Municipal Law.

SECTION 1235. REVIEW

Upon a determination by the Planning Board that the application for a site plan review is complete, the Board shall review the site plan taking into consideration the objectives for site plan review as outlined in Section 1215 above, and all other requirements of this Law.

SECTION 1240. USE AND AREA VARIANCE

During the course of the review, should the Planning Board determine that a site plan approval may not be feasible without the granting of a use or area variance as defined by Town Law Section 267-a the Planning Board may, at its discretion, during the course of the review, refer the application and site plans to the Zoning Board of Appeals for the consideration of such variance.

SECTION 1245. 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 for a site plan review and shall be advertised at least five days before the hearing in a newspaper in general circulation in the town.

SECTION 1250. WAIVER OF PUBLIC HEARING

The Planning Board may waive the public hearing. Such waiver shall not be allowed in any one of the following circumstances:

- A. The use requires a special use permit pursuant to this Law.
- B. The use is a Type I SEQR action and the use is determined by the planning board to have environmental significance.
- C. The use is over 2500 square feet of floor or ground area.
- D. The use is over 30 feet in height.
- E. The use is within 100 feet of a DEC designated wetland area, within 100 feet of a stream with a DEC classification of C or higher, or in a FEMA designated flood plain area.
- F. The use requires an increase or change in public water supply facilities,

sewage facilities, drainage facilities, sidewalks, roads, curbs, gutters, or other public improvements.

- G. The use is determined by the Planning Board to be of a publicly controversial nature.
- H. The applicant has requested a public hearing.

SECTION 1260. FINAL ACTION

- A. Within 62 days of the public hearing, or within 62 days of the acceptance of a complete application by the Planning Board where such hearing has been waived pursuant to Section 1250 above, the Planning Board shall take action. 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 zoning permit for the application as are directly related to and incidental to a proposed site plan. The decision of the Planning Board shall immediately be filed in the office of the Town Clerk and a copy mailed to the applicant.
- B. If the site plans are 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.
- C. If the site plans are approved with modification, 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.
- D. If the site plans are disapproved, the statement shall contain the reasons for such findings.

SECTION 1265. SPECIFIC CRITERIA

A. SITE PLAN SPECIFICATIONS

Before reviewing the site plan, the Board shall insure that the following criteria are observed.

1. Traffic Access All on-site traffic access roads shall be composed of all-weather materials and shall be built to Town Highway standards. The interior roadways shall enter or exit onto State, County, or Local highways only with the permission of those respective Highway Departments. Such entrances or exits shall not be closer than 50 feet to street corners. Visibility on interior roadways or at exits and entrances shall not be impeded so as to cause unsafe traffic conditions as determined by the local Board. Any of these conditions may be waived or altered by the Board.
2. Circulation and Parking Built so that the interior circulation system is not congested and allows the concurrent flow of entering and exiting traffic. As stated above, the surface shall be of all-weather material, as specified by the Town Highway Department. All such areas shall be constructed to Town Highway standards. There shall be two parking spaces for each dwelling unit. All units shall have ready access to the interior roadway. Roadways shall not be closer than 20 feet to any building. Any of these conditions may be waived or altered by the Board.
3. Arrangement of Buildings Arranged so that adequate provision has been made for light, air, access, and privacy in the arrangement of the buildings to each other. Each dwelling unit shall have a minimum of two (2) exterior exposures.
4. Proper Landscaping Within one month of such construction, or at least by September 1, the bare grounds must be seeded. Where construction takes place later than this date or it is impractical to seed, the site shall be mulched to reduce erosion until seeding can take place. Where adjacent land use districts or uses are of a commercial, industrial, or business nature, the Board may require that proper screening and buffer zones be required to reduce noise, dust and disturbance.
5. Certificate of Occupancy No certificate of occupancy shall be issued for any such building or buildings, unless the proposed use conforms in all respects to the site plan and the conditions state herein.
6. Distance Between Buildings
 - a. The front or rear of any principle building shall be no closer to the front

or rear of any other principle building than 40 feet.

b. The side of any principle building shall be no closer to the side, front, or rear of any other principle building than 30 feet.

7. Recreation Space There shall be provided on the site such a use, an area or areas devoted to the joint recreational use of the residents thereof. Such recreation space shall consist of an area not less than twenty-five (25) percent of the total living space of all dwelling units served.

8. Drainage Drainage ways on the lots and at the interior or public roadsides shall be constructed so as to handle the capacity flows at given time. The Soil Conservation Service or the respective Highway Department may be contracted to provide technical assistance on the size of the drainage way or culverts therein.

9. Lighting Exterior lighting shall be adequate to promote safety in the parking areas and on-lot adjacent to the multiple dwelling.

SECTION 1270. -REPORT TO COUNCIL PLANNING BOARD

Within 30 days of final action on any matter referred to the County Planning Board pursuant to Article 12 above, the Planning Board shall file a report of the final action it has taken to the County Planning Board.

ARTICLE 13. SPECIAL USE PERMITS

SECTION 1305. AUTHORITY

The Planning Board is hereby authorized to review and approve, approve with modifications, or disapprove special uses in accordance with the standards and procedures set forth in this Law.

SECTION 1310. APPLICABILITY

All uses designated as requiring a special use approval shall be approved by the Planning Board prior to the issuance of a zoning permit or a certificate of compliance by the Zoning Officer.

SECTION 1315. SPECIAL USE OBJECTIVES

- A. In considering and acting on special uses, the Planning Board shall consider whether or not the use is in the best interests of the public health, safety, welfare, and comfort and convenience of the public in general, the residents of proposed developments, and the residents of the immediate surrounding area.
- B. The Planning Board may prescribe such appropriate conditions and safeguards as may be required in order that the results of its action shall, to the maximum extent possible, further the accomplishment of the following objectives:
 - 1. Compatibility: That the proposed use is of a character compatible with the surrounding neighborhood and in harmony with the comprehensive plan for the community, and will have no undue adverse impact upon the natural environment or the character or integrity of any unique culturally, historically, or architecturally significant land use.
 - 2. Public Facilities: That the public facilities to service the proposed use, including water supply, sewage disposal, drainage facilities, and road facilities, and any other utilities and public services are adequate for the intended level of use.
 - 3. Other Requirements: That the proposed use complies with all requirements of this Law.

SECTION 1320. APPLICATION

Applications for special use approval shall comply with the same provisions as have been set forth in Section 1220 of this Law for site plan reviews.

SECTION 1325. WAIVER OF SUBMISSION REQUIREMENTS

The Planning Board may waive any of the submission requirements listed in Section 1220 of this Law where it deems that the information is either not applicable or is unnecessary to a particular special use review.

SECTION 1330. ENVIRONMENTAL IMPACT REVIEW/ COUNTY PLANNING BOARD REVIEW

Applicant shall submit appropriate long or short form as determined by the Planning Board. The Planning Board shall be responsible for the completion of an Environmental Assessment Form (EAF) for each application for site plan review. 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. Where required the Planning Board shall comply with Sect. 239M of the General Municipal Law.

SECTION 1340. PLANNING BOARD REVIEW

Upon a determination by the Planning Board that the application use is complete, the board shall review the use, taking into consideration compliance with the criteria for site plan review as outlined in Section 1215 of this Law, the special use objectives of Section 13 15 of this Law, and all other requirements of this Law.

SECTION 1350. AREA USE VARIANCE

During the course of the review, should the Planning Board determine that a special use approval may not be feasible without the granting of a use variance as defined by Town Law Section 267-A, the Planning Board may, at its discretion, during the course of the review, refer the application and site plans to the Zoning Board of Appeals for the consideration of such variance.

SECTION 1355. 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 for a special use review and shall be advertised at least five days before the hearing in a newspaper in general circulation in the town.

SECTION 1360. FINAL ACTION

- A. Within 62 days of the public hearing the Planning Board shall act on the special use. 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 was approved, approved with modifications, or disapproved. In its approval, the Planning Board may impose reasonable conditions and restrictions on the issuance of a zoning permit which are directly related to and incidental to a proposed use. The decision of the Planning Board shall be filed in the Office of the Town Clerk within five business days of the decision being reached, and copy shall be mailed to the applicant.
- B. If the special use 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.
- C. If the special use 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 owed to the town, and upon approval of the modified application, the Planning Board endorse its approval on a copy of the application.
- D. If the special use is disapproved, the statement shall contain the reasons for such findings. In such case, the Planning Board may recommend further study of the application and re-submission after it has been revised or redesigned.

ARTICLE 14: SPECIFIC SPECIAL USE AND SITE PLAN REVIEW CRITERIA

Following is a more specific list of uses which are identified for special uses and site plan review criteria. Particular criteria are associated with the respective uses and they must comply with these, in addition to the appropriate criteria previously listed in Section 1215 and Section 13 15.

Where an application has been pursued for a use not specifically listed herein, reference can be made to the criteria for a use so listed that is deemed similar.

A. Commercial Agricultural feedlots, agricultural processing plants and slaughter houses.

1. Such facilities shall be located at least 1000 feet from any off-premises residential lot line.
2. Animal wastes and remnants shall be disposed of in an environmentally safe manner that does not pollute the air, land and water. State Environmental Conservation and Health Laws shall be adhered to.
3. On-lot drainage shall be acceptable to carry run-off water to an off-site location for proper storage or disposal.

B. Airstrips

1. Airstrips shall not be located closer than 1,000 feet to any residential lot line
2. There shall be adequate undeveloped takeoff and landing approach areas to meet FAA standards. Visibility for takeoff and approach patterns shall not be inhibited by topography, development, or vegetation.

C. Animal Hospitals and Kennels

1. Adjacent properties shall not be impacted by noise, odors, and unsightly appearance of the use.
2. All buildings, structures, and accessory use area (except off-street parking) shall be at least 50 feet from any lot line.

D. Educational Institution

1. All such institutions shall be located at least 100 feet from all neighboring lot lines.
2. Neighboring uses shall not be impacted by noise, trespass, electrical disturbance, glare from lights, dust, and visual blight from such a use (including the effects that parking lots cause).
3. The use shall place screening between its use and adjacent to residential lots. This may be fencing or hedges and shall be of such density to reduce such conditions as mentioned above.
4. On-lot drainage shall not impact detrimentally on adjacent properties.
5. Traffic access to the site shall be of adequate capacity to handle exiting and entering traffic concurrently. All travel and parking surfaces shall be paved.

E. Quarrying of stone, sand, and gravel

1. No below ground level excavation (creating a pit) of materials shall be located within 75 feet of any public road or residential property line, or 25 feet from any lot line. Where such operations are between 75 and 100 feet from a residential line, there shall be screening to reduce visibility of the pit, and to eliminate noise and dust from residential properties.

F. Automobile service stations and public garages

1. All motor vehicle service stations shall be so arranged and all gasoline and/or fuel pumps shall be so placed, as to require all servicing on the premises no closer to any street right-of-way line than 40 feet. No gasoline pump shall be placed closer to any side lot line than 50 feet.
2. All junk waste, and servicing materials shall be stored within a structure or enclosed within fencing so as not to be visible from off the property.
3. Underground tanks shall be not less than 50 feet from the lot line, and meet all New York State DEC regulations.
4. Entrance and exit driveways, shall be located at least five (5) feet from any

side or rear lot line.

G. Machine and Welding Shops

1. Such uses shall not be located closer to an off-lot residential lot line than 100 feet.
2. Such uses shall not cause electrical disturbances that will disrupt neighborhood communication reception.
3. No junk, waste, discarded parts or materials used in the business shall be stored outside a building unless it is enclosed by a fence and not visible from neighboring properties .

H. Large Commercial Enterprises

1. Any manufacturing, fabricating, or servicing related to the operation must take place within a building designed to accommodate the use.
2. Materials used in the manufacturing, fabricating or servicing operation may be stored outside the building accommodating the use; however, they must be arranged in a neat and orderly fashion and not be randomly scattered around the lot. The outside storage area shall not be larger than the square footage of the first floor of the building used to house the operation.
3. The large commercial use must be at least 100 feet from the nearest neighboring residential lot (off- premises from the large commercial lot).
4. The large commercial use shall be in keeping with other similar uses permitted in the District and shall not conflict with neighboring residential and agricultural uses.
5. Parking spaces shall be adequate to meet the requirements for Specific Parking Requirements and Parking Area Requirements, Section 1020 and 1030.
6. No unsafe traffic conditions shall be caused by establishment or the use, or any accessory uses, signs or other appurtenances. Such facilities shall be so placed as not to hinder public thoroughfare and traffic site views. Drainage along roadways or affecting such areas shall not be impeded by placement

of such facilities.

I. Multiple Dwellings

Application for multiple dwellings shall require the submission of a site plan to the Planning Board. Said plan or plans as submitted to the Board are required to show all structures, roadways, path walks, parking areas, recreation areas, utility and exterior lighting installations and landscaping on the site. All existing structures and usages within 200 feet of the site boundaries and any other elements as deemed essential by the Board shall also be depicted. The sketch plan shall show dimensions of: the buildings on the lot, the lot boundaries and the distances from the buildings to all lot lines.

1. Open Space

A minimum of twenty-five percent of the site shall be developed as open space. Parking areas and vehicle access facilities shall not be considered in calculating open space.

2. Such uses shall have a minimum area of 150 square feet of rentable space for each unit, exclusive of bathroom facilities.
3. Each rentable unit shall include a minimum of one (1) bedroom and a bathroom with a shower and toilet.

J. Public Utility Buildings

1. Such uses shall include the erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies of: underground or overhead gas, electrical, steam or water transmission generation or distribution systems, electronic communications apparatus; solid waste transfer and sites; sewage treatment plants etc.; and other similar equipment and accessories used in connection therewith for the furnishing of adequate services for the public health or safety or general welfare.
2. The location, design, noise and operation of such facility shall not adversely affect the character of the surrounding residential area.
3. Adequate fences, barriers, and other safety devices shall be provided

around the structure (of any new use) at a height of at least six (6) feet.

4. Public Utility Buildings shall be setback at least 200 feet from the nearest resident lot line.

K. Sales and rental operations for motor vehicles, marine uses, recreational vehicles, trailers, construction equipment, farm machinery, mobile and modular homes.

1. Such sales and rental operations shall be located at least 50 feet from the nearest residential lot line.

2. When within 200 feet of a residential structure, such operations shall be screened from adjacent residential property by a fence, hedge or other planting or structure so as not to be visible from the adjacent property.

3. Such operations that also have service facilities for the same equipment shall meet the requirements of "Automobile service stations and public garages" under this Section.

4. The use shall not cause electrical disturbances that will disrupt communications reception of neighboring areas.

5. The lot where the products are displayed and the parking spaces on-lot shall be constructed of all weather (e.g. gravel, paved, etc.) materials.

L. Building supply sales and storage yards.

1. Such operations shall be at least 50 feet from the nearest residential lot line.

2. When within 200 feet of a residential structure, such operations shall be screened from adjacent residential property by a fence, hedge or other planting or structure so as not to be visible from the adjacent property.

3. The lot where products are stored and parking is situated shall be constructed of all-weather (e.g. gravel, paved, etc.) materials.

4. Access patterns, (both on-lot and exiting/entering onto the public thoroughfares) shall not cause safety hazards. The Planning Board shall review and approve such plans.

M. Light Industrial Operations

1. Such uses shall meet the off-street parking and loading requirements of Article 10.
2. Such uses shall not employ more than 50 people.
3. Such uses shall not produce high volumes of polluting wastes, as identified under State Environmental Conservation Law.
4. Any manufacturing, fabricating or servicing relating to the operation must take place within a building designed to accommodate the use.
5. Materials used in the manufacturing, fabricating or servicing operation may be stored outside the building accommodating the use; however, they must be arranged in a neat and orderly fashion and not be randomly scattered around the lot. The outside storage area shall not be larger than the square footage of the first floor of the building used to house the operation.
6. The use shall be at least 200 feet from the nearest residential property line.

N. Drive-In Theaters

1. Each drive-in theater shall consist of at least five (5) acres.
2. Each area shall be landscaped in accordance with a plan approved by the Planning Board.
3. Each area shall be so located that the noise, lights, and traffic will not adversely impact neighboring residential areas or traffic on adjacent highways.
4. Each area shall be at least 500 feet from the nearest residential lot line.
5. Traffic ingress and egress from the area shall be by separate driveways. Interior roadways shall be appropriately marked for traffic directions.

O. Adult Entertainment Services

1. All such uses shall be at least 2,000 feet- from the nearest lot line of any residentially used land or any public, private or parochial school, library, park, playground, or other recreational facility, etc., where large numbers of minors regularly travel or congregate.
2. All such uses shall not be located within a 2,000 foot radius of any other such use.
3. All building openings, entries, windows, doors, etc., shall be located, covered or screened in such a manner as to prevent a view into the interior from any public or semi-public place.
4. Outside advertising for all such uses shall be limited to one (1) advertising sign, as stipulated by the Supplemental Uses and Regulations Section of this Law.
5. All such uses shall not be located on a State or County Road.

P. Recreational Facilities

1. They shall be located at least 50 feet from a lot or road line, excluding recreational trails, which will meet a 15 foot setback.
2. If it is a commercial facility and is intended to serve a membership or clientele over 25 people on a regular basis the facility shall not be closer than 100 feet from a residential lot line.
3. Appropriate screening to reduce noise and dust shall be required when such a commercial use is adjacent to a residential lot. This screening may include fencing or hedges of appropriate density.
4. Off-street parking spaces shall be provided in compliance with the off-street parking requirements of Article 10.

Q. Campgrounds/Housekeeping Units.

1. Each campground/housekeeping unit shall have adequate access to a public road, and each campsite shall be serviced from interior road ways.

2. All buildings and campsites shall have a setback of 150 feet from the public road line. All such yards shall be seeded and/or adequately landscaped to provide screening from the road.
3. All other campsites shall be 4,000 square feet minimum with at least 50 feet frontage on an interior roadway. All housekeeping units shall have a minimum of 30,000 square feet and 100 feet of frontage on an interior roadway. All campsites shall be 4,000 square feet minimum, with at least 50 feet frontage on interior roadway and shall be set back a minimum of 150 feet from any waterfront lot line, provided however, that there shall be no more than 4 campsites per acre.
4. A minimum of 10 percent of the total acres of the campground or area designated housekeeping unit, not including the required setback, shall be dedicated to a recreation area and shall be fully maintained by the campground owner.
5. Campsites or housekeeping units shall be located on generally level terrain, that is well drained, free of flood hazard and clear of dense brush.
6. The corners of each campsite shall be clearly and permanently marked, and each site numbered for identification.
7. Where the campground terrain is adequate, "pull through" sites shall be provided.
8. Sanitary sewage disposal, water supply and all other improvements shall meet the requirements of Chapter 1, Part 7, of the New York State Sanitary Code, and all other state, county, and town requirements. All sanitary facilities for campsites and housekeeping units shall be located a minimum of two hundred fifty feet from any water line.
9. Refuse shall be disposed of in a manner acceptable to the Town and to the New York State Health Department or other appropriate State agency. There shall be no on-lot exposed garbage, junk, or other wastes. One garbage receptacle shall be provided for each four sites or portion thereof. All receptacles shall contain securely fastened lids

and be appropriately screened as determined by the Planning Board. The operator of a campsite shall provide for periodic removal of garbage, junk and other waste no less frequently than once per week.

10. Each campground shall contain the following approved New York State Health Department sanitary facilities:
 - a. trailer dumping station
 - b. one toilet, lavatory and shower for each sex for each twenty (20) campsites.
11. Swimming areas shall meet State standards.
12. At least one public telephone shall be provided in each Campground/ housekeeping unit site.
13. Where electrical service is provided to sites, it shall be weatherproofed and of a type approved by the New York State Fire Underwriters.
14. Internal roads are subject to Planning Board approval.
15. The owner or manager of a campground or site for housekeeping units shall maintain: an office in the immediate vicinity of the campground or housekeeping unit and shall maintain accurate records of: the names of campground or housekeeping residents; home address; and make, description, year, license or identification number of the recreation camping vehicle. These records shall be available to any ordinance enforcement official or the Zoning Officer.
16. Mobile homes shall not be parked, whether permanently or temporarily, in any campground.
17. For those campground or housekeeping units having access to water, any dockage or launch areas must be separated from any swimming areas by a minimum of one hundred feet and there shall be no more than one powered water craft for each one hundred feet of frontage on the body of water.

ARTICLE 15. NON-CONFORMITIES

SECTION 1510. INTENT

The intent of this article is to recognize lots, structures and uses of land and structures which legally existed prior to the enactment of the Zoning Law of May 1985, 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 Non-conforming lots, structures or uses. It shall be the responsibility of the property owner to prove Non-conforming status.

SECTION 1520. NON-CONFORMING LOTS OF RECORD

Any lot held under separate ownership prior to the enactment or amendment of this Law, and having a width, depth or area less than the minimum requirements set forth in this Law, may be developed for any use allowed in the zone in which it is located, as designated in Article 4 of this Law, provided that such lot has sufficient width, depth and area to undertake development which will:

- A. Maintain the required minimum front yard.
- B. Maintain at least 2/3 of the required minimum side and rear yards.
- C. Not exceed the maximum permitted lot coverage.
- D. Have at least 2/3 of the required front lot line.
- E. Have at least 2/3 of the required lot area.
- F. Have required minimum area for a septic system as approved by the Zoning Officer.

Any non-conforming lot of record which does not meet the above minimums requires ZBA variance approval.

SECTION 1530. NON-CONFORMING USES OF LAND OR STRUCTURE

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

- A. No non-conforming use shall be increased in size so as to occupy a greater area of land or floor area than was committed to the non-conforming use at the time of such enactment or amendments.
- B. No non-conforming use which has for any reason been discontinued for a period of one year or more shall be re-established.
- C. A variance shall be required for any alteration or reconstruction which is on the premises of a non-conforming multi-family residential or nonresidential use.
- D. A non-conforming structure or use may not be altered, except in conformity with the regulations for the district in which it is located.

SECTION 1540. NON-CONFORMING STRUCTURES

No structure which by the enactment or amendment of this Law is made non-conforming or placed in a non-conforming situation with regard to yard sizes, lot coverage, height or any requirement of this Law, other than the use to which it is put, shall be changed so as to increase its non-conformity. If a structure is non-conforming as to use, see Section 1530 above. Any such non-conforming structure may be used for any compatible use listed for the zone in which it is located as designated in this Law.

SECTION 1550. NON-CONFORMING STRUCTURES DAMAGED OR DESTROYED

Any structure which is non-conforming as to use, yard sizes, lot coverage, height or any other requirement of this Law, which is less than 50 percent 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. Replacement with another structure is not to be construed as

repairing, restoring or reconstructing. A non-conforming structure that has been damaged by fire, explosion, or other cause can not be rebuilt in non-conforming form if the damage exceeded 50 percent of the volume of the structure above the foundations.

SECTION 1560. CERTIFICATE OF LEGAL NON-CONFORMITY

The Zoning Officer may issue a certificate of legal non-conformity to the owner of any non-conforming property upon the request of the owner certifying the legal non-conforming status of the property. Such certificate may be issued by the zoning officer upon the owner providing acceptable proof of such non-conforming status to the Zoning Officer.

ARTICLE 16. ADMINISTRATION AND ENFORCEMENT

SECTION 1605. ZONING PERMITS REQUIRED

No land-use activity as listed below shall be carried out until a zoning permit has been issued by the Zoning Officer stating that the proposed building, structure, use of land, or development activity complies with requirements of this Law:

- A. Erection, re-erection or movement of a building or structure.
- B. Change of the exterior structural dimensions of a building or structure.
- C. 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.
- D. The resumption of any use which has been discontinued for a period of 12 months or longer.
- E. Establishment or change in dimensions of a parking area for nonresidential or multi-family residential uses.
- F. Placement of a sign as regulated in Section 1110 of this Law.

SECTION 1610. ZONING PERMIT EXCEPTIONS

A zoning permit shall not be required for:

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.).

Minor accessory structures such as posts, sidewalks, driveways, flagpoles, playground equipment, etc.

Family day care homes and group family day care homes operated as home occupations.

Non-instructional agricultural and forest management uses.

SECTION 1615. TEMPORARY ZONING PERMITS

Temporary zoning permits may be issued upon approval of the Zoning Officer for a period not to exceed 6 months for temporary uses and structures incidental to a construction project. Such temporary zoning permit shall be conditioned upon agreement by the applicant to remove any non-conforming uses or structures upon expiration of the permit. The Zoning Officer may place such appropriate conditions on the use so as to protect the character of the surrounding area.

SECTION 1620. APPLICATION PROCEDURE FOR ZONING PERMITS

- A. Applications for zoning permits shall be submitted to the Enforcing Officer or Town Clerk and shall include (2) copies of a layout or plot plan showing the actual dimensions of the lot to be built upon; the size and location on the lot of the building and accessory buildings to be erected; the distance from the building line to all lot lines, road right-of-way line, waterfront lot line, streams and any other features of the lot; and other information as may be necessary to determine and provide for the enforcement of this Law. This information, and other relevant application data, shall be provided on a form issued by the Town.
- B. When establishing measurements to meet the required setbacks and yard sizes, the measurements shall be taken from the lot line, road right-of-way line (see Zoning Officer for interpretation) 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.
- C. The Zoning Officer shall take action to approve or disapprove the application within 10 days of the receipt of a completed application by the zoning officer and the payment of all fees. No more than two renewals will be permitted.
- D. A zoning permit shall expire one year 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. No more than two renewals will be

permitted.

SECTION 1625. PERMIT FEES

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

SECTION 1630. 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 Zoning Officer stating that the use or structure complies with the provisions of this Law. AH certificates of compliance shall be applied for coincidentally with the application for a zoning permit and shall be issued within 10 days after the use has been approved as complying with the provisions of this Law.

SECTION 1635. TEMPORARY CERTIFICATE OF COMPLIANCE

A temporary certificate of compliance for not more than six months for a part of a use or structure may be issued upon approval of the Zoning Officer. Upon such approval certificate may be renewed once upon request.

SECTION 1640. 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 the effective date of the Town of Theresa Subdivision Regulations, 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 1645. ZONING OFFICER

This Law shall be enforced by the Zoning Officer, who shall be appointed by the Town Board. The duties of the Zoning Officer shall be to:

- A. Issue and deny zoning permits, certificates of compliance, and certificates of occupancy required by NYS Building Code.
- B. Scale and interpret zone boundaries on the Zoning Map.
- C. Refer appropriate matters to the Zoning Board, Planning Board, Town Board.
- D. Make such inspections as are necessary to insure the compliance with this Law upon giving the owner reasonable notice of the intent to inspect a use or structure and after securing the permission of the owner of any use or structure being inspected.
- E. 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.
- F. Investigate violations, issue stop work orders, orders to remedy, and appearance tickets; and refer violations to the Town Justice or the Town Board.
- G. Issue certificates of legal nonconformity.

SECTION 1650. ZONING BOARD OF APPEALS

A five member Zoning Board of Appeals is hereby created pursuant to Town Law Section 267. The Board of Appeals shall have all the power and duties prescribed by Town Law Section 267-B and by this Law, which are more particularly specified as follows:

- A. **Interpretations:** Upon appeal from a decision by the Zoning Officer, to decide any question involving the interpretation of any provision of this Law, including determination of the exact location of any zone boundary.

- B. **Variances:** Upon appeal from a decision by the Zoning Officer, or upon referral by the Planning Board, to vary the strict application of any of the requirements of this Law.

All applications for interpretations and variances shall be made and reviewed in compliance with the administrative regulations established by the Zoning Board of Appeals and Section 267-A of the Town Law.

SECTION 1655. PLANNING BOARD

The Planning Board shall have the following powers and duties with respect to this Law:

Approval or Denial of:

- A. Site plans.
- B. Special use permits.

SECTION 1660. TOWN BOARD

The Town Board shall have the following powers and duties with respect to this Law:

- A. Adoption and amendment of this Law.
- B. Appointments to Zoning Board of Appeals, and Planning Board.
- C. Appointment of the Zoning Officer.

SECTION 1665. VIOLATIONS

- A. 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 Town Clerk who shall immediately notify the Zoning Officer. The Zoning Officer shall properly record and immediately investigate such complaint. If the complaint is found to be valid, the Zoning Officer shall issue a written notice of violation and an order to stop work to the owner or occupant of the premises. Such notice shall require all work to cease until the violation is corrected.

B. The notice of violation shall contain the following:

1. The nature and details of such violation.
2. The recommended remedial action to be taken to effect compliance with the provisions of this Law.
3. The date by which compliance must be remedied.

C. If the violation is not corrected within the specified time the Zoning Officer shall take action to compel compliance. Pursuant to Criminal Procedure Law Section 150.20 (3), the Zoning 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.

SECTION 1670. PENALTIES

Any person who shall be found to violate any provision of this Zoning Law, shall be guilty of an offense and shall be subject to fines and penalties as follows:

- A. For each violation, a fine not to exceed \$250.00.
- B. Each week, or portion thereof, that a violation continues, shall be considered a separate offense.
- C. Any Law Enforcement Officials, Zoning Officer, or Code Enforcement Officers the Town may so designate and delegate shall be allowed to issue an appearance ticket for violations of this Law.
- D. Upon a finding by the court that any person is in violation of this Chapter and has failed to comply as directed by the Town, the Town shall have the power to direct the Town Highway Department or some other designated individual to enter the property to achieve compliance. All costs incurred in achieving compliance shall be charged back to the property owner. The Town may assess all costs against the property and recover the same as unpaid taxes where the property owner(s) does not reimburse the Town within thirty (30) days of billing.
- E. . The Town Board may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this Law.

ARTICLE 17. MISCELLANEOUS PROVISIONS

SECTION. 1710. 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 Sections 239 M.

SECTION 1720. 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 statute, rules, regulations, or laws, the most restrictive, or that imposing the higher standards, shall govern.

SECTION 1730. SEPARABILITY

Should any article, section, subsection, sentence or clause of this Law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

SECTION 1740. EFFECTIVE DATE

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