



Town of Deerpark

Orange County, New York

ZONING LAW

Adopted: March 25, 2013

Town of Deerpark
420 Route 209, PO Box 621
Huguenot, New York 12746



This project was assisted by a grant from the
Upper Delaware Council, Narrowsburg, New York 12764

Logo is copyrighted by the Upper Delaware Council. All rights reserved.
Logo may not be copied or reproduced without written permission from the UDC.

Prepared By:
Fusco Engineering and Land Surveying, P.C.
233 East Main Street
Middletown, New York 10940

Town of Deerpark Zoning Law

TABLE OF CONTENTS

ARTICLE 1 – ENACTMENT AND INTENT

		<u>Page</u>
§ 230-1	Enactment	1
§ 230-2	Intent	1

ARTICLE 2 – DEFINITIONS

§ 230-3	Word Usage	2
§ 230-4	Specific Definitions	2

ARTICLE 3 – BASIC DISTRICT REGULATIONS

§ 230-5	Enumeration of District	12
§ 230-6	Zoning Map	12
§ 230-7	Interpretations Of District Boundaries	12
§ 230-8	Schedule of District Regulations	12
§ 230-9	Setbacks with Regard to Construction Adjacent to Hunting Club Properties	13
§ 230-10	Amendment of Certain Sections of Articles II, III, and VII of the Zoning Law	13
§ 230-11	Applicability of Regulations	14
§ 230-12	Lot Development Standards	14
§ 230-13	Height Restrictions	15
§ 230-14	Yard Regulations	15
§ 230-15	Accessory Structure and Use Standards	16
	Schedule of District Regulations	16

ARTICLE 4 – GENERAL SUPPLEMENTARY REGULATIONS

§ 230-16	Parking, Loading, Access and Traffic Standards	18
§ 230-17	Floodplain Development Standards	21
§ 230-18	Home Occupation Regulations	37
§ 230-19	General Commercial and Industrial Standards	38
§ 230-20	Minimum Lot Size Standards	40
§ 230-21	Flag Lots	41

ARTICLE 5 – SUPPLEMENTARY REGULATIONS APPLICABLE TO PARTICULAR USES

§ 230-22	Recreational Vehicles, Campgrounds and RV Parks	42
§ 230-23	Manufactured Homes and Parks	48
§ 230-24	Planned Residential Developments	50
§ 230-25	Planned Residential Districts and Planned Residential Retirement Districts	55
§ 230-26	Multi-Family Residential Uses	70
§ 230-27	Conversions of Residential or Non-Residential Structures	75
§ 230-28	Sand, Gravel and Quarrying Questions	75
§ 230-29	Telecommunications Facilities	75
§ 230-30	Signs	85
§ 230-31	Cluster Development (Conservation Subdivision)	90
§ 230-32	Upper Delaware River Provisions	91
§ 230-33	Animal Husbandry, Animal Hospitals and Commercial Agriculture	92
§ 230-34	Camps and Conference Centers	92
§ 230-35	Hotels, Motels and Resorts	93
§ 230-36	Adult Uses	93
§ 230-37	Vehicle Junkyard and Wrecking Facilities	95

Town of Deerpark Zoning Law

§ 230-38	Continuing Care Facilities Schedule of Sign Regulations	99
----------	--	----

ARTICLE 6 – NON-CONFORMING USES AND STRUCTURES

§ 230-39	Rights to Continue Non-conforming Uses	104
§ 230-40	Normal Maintenance and Repairs	104
§ 230-41	Restoration, Reconstruction, or Re-establishment	104
§ 230-42	Changes and Additions	105
§ 230-43	Use of Existing Non-conforming Lots of Records	106

ARTICLE 7 – SPECIAL USE AND SITE PLAN REVIEW PROCEDURES

§ 230-44	Preliminary Site Plan	107
§ 230-45	Application and Site Plan Required	107
§ 230-46	Waivers	108
§ 230-47	Hearing and Decision	108
§ 230-48	Conditions	109
§ 230-49	Referrals	109
§ 230-50	Appeals	109
§ 230-51	Effect of Site Plan Approval	109
§ 230-52	Renewal of Permits	109
§ 230-53	Conformity with Other Plans, Laws and Ordinances	109
§ 230-54	Special Use Review Criteria	111
§ 230-55	Landscaping Standards Applicable to Special Uses	111
§ 230-56	Bonding for Site Improvements Related to Special Uses	113

ARTICLE 8 – ADMINISTRATION AND ENFORCEMENT

§ 230-57	Building Inspector	116
§ 230-58	Permit Requirements	116
§ 230-59	State Environmental Quality Review Act Compliance	117
§ 230-60	Violations and Penalties	118
§ 230-61	Fees	118

ARTICLE 9 – ZONING BOARD OF APPEALS

§ 230-62	Establishment and Membership	119
§ 230-63	Powers and Duties	119
§ 230-64	Procedures	120

Official Zoning Map

ARTICLE 1
ENACTMENT AND INTENT

§ 230-1 Enactment

There is hereby established a zoning plan for the Town of Deerpark, which plan is set forth in the text and map that constitute this Zoning Law.

§ 230-2 Intent

It is the legislative intent of this Zoning Law to provide for the orderly and desirable development and use of land. This Law provides specifications, procedures, and a precise plan designed to guide new development while improving, conserving, or facilitating desirable change in existing portions of the Town. As provided in Sections 261, 263, and 281 of Article 16 of the Town Law of the State of New York, this Law is to serve the purpose of protection and promoting the general welfare which is intended to include the following:

- A. To protect and preserve the rights of all landowners to enjoy and make economic use of their property without undo hardship.
- B. To assure conditions that encourages the most productive use of land throughout the Town and balance commercial ratables with residential ratables as much as possible).
- C. To assure adequate sites for present and future local and regional needs for residence, industry, and commerce.
- D. To encourage flexibility in the design and development of land in such a way as to promote the most appropriate use of lands, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural and scenic qualities of open land.
- E. To enhance the general appearance of the Town.
- F. To provide for the privacy of family residences.
- G. To facilitate the adequate and efficient provision of community facilities, services, utilities, recreation, fields, open space, and sustainable woodland.
- H. To promote the safe and efficient circulation of vehicles and pedestrians.
- I. To require the adequate provision for off-street parking and loading.
- J. To balance commercial and residential development in relation to open spaces, circulation, and neighboring land uses.
- K. To safeguard against hazards and nuisances.
- L. To allow the orderly development of property for the greater good of the Town while maintaining freedom of use for the property owners and residents of the Town.

ARTICLE 2
DEFINITIONS

§ 230-3 Word Usage

- A. Unless otherwise listed below, the numbers, abbreviations, terms and words used herein shall have the meanings of common usage as set forth in the latest edition of Merriam-Webster's Collegiate Dictionary (currently 11th Edition). Terms of law shall have the meanings as set forth in the latest edition of Black's Law Dictionary.
- B. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular include the plural; words used in the plural include the singular; the word "herein" means in this law; the word "requirements" means the minimum requirements necessary for the purposes set forth in Article 1; and the words "this law" shall mean this local law and the schedules and maps included herein as enacted or subsequently amended.
- C. The word "person" as used in this chapter, shall be defined to include, but not limited to, an individual, a partnership, a joint venture, a corporation, an unincorporated association, a firm or any other form or entity, contractors, subcontractors, or journeymen.
- D. The word "lot" includes the word "plot".
- E. The term "occupied" or "used", as applied to any land or building, shall be construed to include the words "intended", "arranged", or "designed to be occupied or used".
- F. "Shall" is always mandatory.

§ 230-4 Specific Definitions

Access Area – A property used as an area of entry to a stream or other body of water for the purpose of launching or landing of watercraft. The access area may also include ancillary services or facilities other than base operations for watercraft rentals and may be operated as a private business.

Accessory Use, Building or Structure – A subordinate use, building or structure customarily incidental to and located on the same lot occupied by the main use, building or structure. The term "Accessory Building" may include a private garage, garden shed, a private playhouse, and a private greenhouse. "Accessory Buildings" may be constructed without a primary use in some zones for recreational, agricultural, or construction storage.

Agricultural Use – A use involving the production, keeping, or maintenance for sale, lease or personal use of plants and animals useful to man, including but not limited to forages, grain and seed crops, dairy animals, poultry, beef, sheep, horses, pigs, bees, fur animals, trees, food of all kinds, vegetables, nurseries, and lands devoted to soil conservation or forestry management programs.

Alteration – A change, enlargement or rearrangement in the structural parts of a structure, whether by extending on a side or by increasing in height; or moving from one location or position to another.

Arena, or Sports Arena – A coliseum, stadium, arena or other place of public assembly for purposes of sport, equestrian and other animal, entertainment, athletic, recreational, craft fairs, shows, or other similar purposes and events (see definition of Event).

Bait and Tackle Shop – A retail establishment in which hunting and fishing equipment, supplies and accessories are sold to the public.

Basement – A story in a building having a floor below the finished grade at any point on the periphery of the building and having a structural ceiling at least four feet above the average finished grade along each side of the building facing the street (see cellar).

Bed and Breakfast – An existing residence which is used, in the manner of a home occupation, to provide overnight lodging with breakfast as part of the consideration and involving shared bath and dining facilities; also including youth hostels.

Building – See structure.

Building Contractor’s Storage Yard – A building or area of land where persons, firm or corporations engaged in the construction business, or a related field, store building materials, equipment and supplies used exclusively in that contracting business. Retail and wholesale sale of any contractor’s materials or supplies is prohibited.

Building Height – The vertical distance measured from the average elevation of the proposed finished grade to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

Building Inspector – The person or consultant charged by the Town Board with responsibility for administration and enforcement of this law and responsible as Building Department Head.

Business Service – Establishment primarily engaged in rendering services to businesses on a fee or contract basis, such as advertising and mailing, building maintenance, unemployment service, office equipment rental and leasing, commercial research, development and testing, photofinishing, and business supplies.

Camp and Conference Center – A site and group of structures facilitating the gathering of people, whether children, youth, adults or families; whether via pickup and delivery (as in the case of a “day camp” of multi-day duration); a one-day event; or a short-term event requiring the provision of overnight accommodations in permanent or semi-permanent structures. Food service, specialized facilities and staff support are provided promoting the particular purposes of the gathering, whether athletic, recreational, outdoor education, religious, cultural, or the sharing of information, and the conduct of organizational business. Year-round accommodations for staff may be provided.

Campground – A tract of land providing two or more sites (for rent or sale) for the temporary parking of recreational vehicles or the erection of tents or other portable sleeping accommodations.

Car Wash – A building, portion of a building, and/or area arranged, intended or designed to be used for the washing, spraying, waxing, polishing or drying of motor vehicles, and/or the vacuum or dry-cleaning of same, on a commercial basis.

Cellar – A space in a building with structural ceiling level less than four (4) feet above the average finished grade along any side of the building facing a street.

Cemetery – A place used for burials, whether in the ground or in mausoleums, provided that no new cemetery shall result in in-ground burials within a 100-year floodplain area or the construction of any mausoleum structure (of greater than five hundred (500) square feet in size).

Community Wastewater System – Facilities serving two or more dwellings or properties with collection and treatment of wastewater prior to discharge to an approved disposal location.

Club, Membership – An organization catering exclusively to members and their guests, which is not conducted primarily for gain, provided there are not conducted any vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club. Accessory uses and/or structures may include such subordinate purposes as administration, operation, accommodations, and the sale of food and drink primarily to members and their guests.

Town of Deerpark Zoning Law

Cluster Development – Grouping of buildings (whether on individual lots or in condominium ownership) in proximities closer than permitted by the existing zoning and subdivision regulations in order to preserve open space and to minimize infrastructure improvements (also known as “conservation subdivision”).

Code Enforcement Officer – The person or consultant charged by the Town Board with responsibility for administration and enforcement of this law serving as or under the Building Department Head.

Community Center – A meeting house for the residents of a development (whether the homeowners of a large-scale residential development, the seasonal residents of a bungalow colony or resort, of the residents of a mobile home park), for such occasions and purposes as social, cultural, recreational, and community governance. Such a structure may be owned and operated either by the management of the development or a homeowners association, and shall be considered to be an accessory building.

Condominium – A mode of ownership wherein each unit of enclosed space may be owned in fee simple individually and separately from all others, but where all such owners have an indivisible interest in the common areas. Thus, they share ownership and attendant responsibilities for the provision, maintenance and/or repair of common internal facilities, utilities, services, exterior building surfaces, land, landscaping, parking, lighting and other outdoor facilities.

Convenience Retail Store – A retail store containing less than three thousand (3,000) square feet of gross floor area that is designed and stocked primarily to sell food, beverages, and household supplies to customers who purchase only a relatively few items.

Cooperative – A mode of ownership for which title is held jointly by a group of cooperators, each member owning a given number of shares in the corporation in proportion to the value of his individual dwelling unit, which he “owns” under an occupancy agreement. Each cooperator is assessed, according to the number of shares owned, for maintenance of common areas.

Custom Work, Shop for – A business premises used for the making of clothing, millinery, shoes or other personal articles to individual order and measure, for sale at retail on the premises only, not including the manufacture of “ready-to-wear” or standardized products.

Customary Residential Accessory Uses – Garden house, playhouse, tool house, greenhouse, swimming pool, satellite dish antennas and private garage; the keeping of domestic animals as pets; the raising of field and garden crops, vineyards, and orchard farming, provided such crops or produce are for the sole and exclusive use of the occupant or owner of the premises, and not for resale.

Density – The number of families, individual dwelling units or principal structures per unit of land.

Dwelling – A building designed or used as the living quarters for one or more families. The term “dwelling” shall include seasonal homes and mobile homes provided that they meet all requirements of this law, the building code, and all other regulations or ordinances applicable to dwellings.

Dwelling, Multi-family – A building or portion thereof containing more than two dwelling units but intended for single ownership. Single ownership is not intended to preclude cooperative or condominium ownership.

Dwelling, One-family – A detached building designed or occupied exclusively by one family and having two side yards, with at least 1,000 square feet of living area, the shortest dimension, longitudinally or transversely, of which must be at least 24 feet, erected on a permanent foundation, with/without basement and equipped for year-round occupancy.

Dwelling, Two-family – A structure containing two dwelling units.

Town of Deerpark Zoning Law

Dwelling Unit – A building or entirely self-contained portion thereof containing complete housekeeping facilities for only one family, including any domestic servants employed on the premises, and having no enclosed space (other than vestibules, entrance or other hallways or porches) or cooking or sanitary facilities in common with any other dwelling unit.

Event – With reference to the Arena or Outdoor Recreational Activity uses incorporated into this Chapter, an activity or occasion that is planned and intended for general public attendance.

Essential Services – The construction and maintenance of underground, surface or overhead electrical, gas, telephone, water and sewage collection systems along with normal accessory activities.

Extractive Uses (Mining) – A lot or land, or part thereof, used for the purposes of extracting stone, sand or gravel, as an industrial operation, and including quarries, stone crushers, screening plants, concrete product plants, storage of quarry screenings, accessory to such uses. This definition shall not encompass the process of grading a lot preparatory to the constructions of a building for which application for a building permit has been made.

Family – As many as six (6) persons living together as a single, permanent and stable nonprofit housekeeping unit, using all rooms in the dwelling and housekeeping facilities in common and having such meals as they eat at home generally prepared and eaten together with sharing of food, rent, utilities or other household expenses. Households or groups of more than six (6) persons living together shall not be considered families for purposes of this Law unless affirmative evidence is presented to indicate to the satisfaction of the Building Inspector that the household or group meets the other criteria contained herein.

Farm Stand – A building, whether fully or partially enclosed, that is intended for the display and sale of primarily locally raised agricultural produce and products.

Floor Area – The sum of the gross horizontal areas of the several floors of the building or buildings on a lot measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings, excluding cellar and basement areas used only for storage or for the operation and maintenance of the building.

Floor Area Ratio – The floor area in square feet of all buildings on a lot divided by the area of such lot in square feet.

Garage, Parking – A building, not a private garage, used for the storage of automobiles, or trucks, and not used for making repairs thereto.

Garage, Private – An enclosed space for the storage of one or more vehicles, provided that no business, occupation or service is conducted for profit therein nor space for more than one car leased to a nonresident off the premises.

Greenhouse, Commercial – An enclosed structure of a permanent or temporary nature within which is conducted a commercial agricultural operation, generally the propagation of one or more horticultural species from seeds or cuttings to a stage fit for transplanting elsewhere or sale, including retail as well as wholesale operations.

Hazardous – Any material defined by the United State Environmental Protection Agency (EPA) as hazardous or toxic due to its characteristics, including but not limited to direct or indirect toxicity, radioactivity, explosivity, and flammability, or other characteristics as the EPA or its successors may revise from time to time.

Health Care, Rehabilitative and Medical Facilities – Any land use or facility that is devoted to human health care and maintenance, treatment of substance abuse problems or the provision of medical services, whether offered in a residential setting or as day-treatment.

Home-energy Generation Device – A device, used at a residence, for the purpose of providing a power source for the residence, whether driven by the wind, supplied from the sun or generated from some other resource (e.g. geothermal).

Home Occupation – Any use customarily conducted entirely within the principal structure and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the principal use and does not change the character thereof. Such occupations may include, but are not limited to, professions and trades, real estate and insurance offices, and beauty and barber shops.

Hospital – Unless otherwise specified, the term “hospital” shall be deemed to include sanatorium, nursing home, convalescent home, and any other place for the diagnosis, treatment or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

Hospital, Animal – An establishment for the medical and surgical care of sick or injured animals.

Hotel – A building containing rooms used for overnight accommodations of those in transit, or for a short-term or extended business stays or short term personal stays. Single-room occupancy residential projects will not be considered to be hotels but shall be considered to be multi-family dwellings under the provisions of the Zoning Law. A hotel may have facilities that provide meals and other services within the main building or in an accessory building located on the hotel site.

Hunting Club – A privately held area of open space used by a non-profit organization for the purposes of recreational hunting and/or fishing on a non-commercial basis, which may be accompanied by a clubhouse, cabin, shooting range and similar accessory uses.

Industrial Park – A highly restricted type of planned industrial development in which special emphasis and attention are given to aesthetics and community compatibility and the property is developed according to a comprehensive plan which includes detailed provisions for streets and all necessary utilities as well as serviced sites for a community of industrial and industry-oriented uses.

Industrial Uses – Uses involving manufacturing or processing involving changing the nature, size, or shape of substances of raw materials, or recombining raw materials. Industrial uses may involve the use of chemical applications, heat, pressure or other mechanical processing methods.

Junkyard – An area of land with or without buildings used for or occupied by a deposit, collection or storage, outside a completely enclosed building, of used or discarded materials, such as waste paper, rags, scrap metal, or discarded material; tires; or used building materials, house furnishings, machinery, or parts thereof; with or without dismantling, processing, salvage, sale or use or disposition of same; including vehicle junkyard and wrecking facilities as further defined herein.

Kennel – A structure used for the harboring of more than five dogs or cats with attendant commercial services that may include boarding, grooming, breeding, raising, and/or veterinary care.

Lot – A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development.

- (a) Conforming – a lot having not less than minimum area and dimensions required by this law for a lot in the district in which such land is situated, and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of State law to be adequate as a condition of the issuance of a building permit for a building on such land.
- (b) Non-conforming – a parcel of land owned individually and separately, and separated in ownership from any adjoining tracts of land, which has a total area and/or dimensions less than prescribed by this law for a lot in the district in which such land is situated.

Lot, Corner – A lot at the junction of, or abutting on, two or more intersecting streets where the interior angle of intersection does not exceed 135 degrees. A lot abutting a curved street shall be deemed a corner lot if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect on an interior angle of less than 135 degrees.

Town of Deerpark Zoning Law

Lot Depth – The mean distance from the street line of a lot to the rear lot line of such lot, not to include the street or road right-of-way.

Lot Line, Rear – The lot line generally opposite the street line.

Lot Width – The shortest distance between side lot lines measured at the front yard setback line.

Manufactured (Mobile) Home – A structure, transportable in one or more sections, which is built on a permanent chassis and designed, to be used as a dwelling unit, when affixed to a permanent foundation or placed on a concrete slab, and connected to the required utilities. Manufactured home does not include a modular home.

Manufactured Home Park – A parcel of land under single ownership which has been planned and approved for the commercial renting of manufactured home sites.

Manufacturing, Light – Industrial uses such as manufacturing, processing and assemblage that are of a nonpolluting nature, particularly in regard to reservoir and ground water resources, and in regard to ambient air quality, noise and light radiation.

Modular Home – Factory-manufactured housing, subject to the requirements and regulations of the New York State Uniform Fire Prevention and Building Code, in which prefabricated components assembled at the plant are sent to a housing site in two (2) or more pieces, depending on the size and style of said housing, to be joined together to form a complete house on a permanent foundation.

Motel – A building containing overnight accommodations intended or designed to be used or which are occupied for sleeping purposes by transients and where meals may be served and which caters to the motoring public. The ordinary length of stay is overnight, but may extend as long as one week under unusual circumstances.

Nursery – A place where trees, shrubs, vines and/or flower and vegetable plants are propagated or grown for a period of at least six months and/or where flowers and vegetables of an annual variety are germinated before being offered for sale and transplanting. (Such definitions shall not encompass those retail establishments that buy the majority of their horticulture stock wholesale, not propagating it themselves).

Nursery School – A facility designed to provide daytime care or instruction for two or more children from infancy to five years of age inclusive, and operated on a regular basis.

Nursing and Senior Care Facilities – Any dwelling where persons are housed or lodged and furnished with meals and nursing care for hire.

Office, Business and Professional – A place or establishment used for the organizational or administrative aspects of a trade, or used in the conduct of a profession or business, and not involving the manufacture, storage, display or direct retail sale of goods. This may include, but is not limited to, offices of salesmen, sales representatives, architects, engineers, physicians, dentists, attorneys, insurance brokers, real estate brokers, and persons with similar occupations.

Permitted Use – A specific main use of a building, structure, lot or land, or part thereof, which this Law provides for in a particular district as a matter of right. Any use that is not listed as permitted, special use or accessory use shall be considered a prohibited use, unless a use variance shall have been granted by the Zoning Board of Appeals.

Permitted Use With Planning Board Approval – The specific main use of a building, structure, lot or land, or part thereof, which this Chapter provides for within a particular district as a matter of right only upon Planning Board approval and site plan review. Any use that is not listed as a permitted use, permitted use with Planning Board approval, special use or accessory use shall be considered a prohibited use, unless a use variance shall have been granted by the Zoning Board of Appeals.

Personal Services – An establishment primarily engaged in providing services involving the care of a person or personal apparel, such as a beauty parlor, barber shop, health and fitness center, tailor, or custom cleaning services.

Town of Deerpark Zoning Law

Principal Structure – A building in which is conducted the main or principal use of the lot on which it is located.

Public Buildings and Uses – Structures and uses operated by a governmental agency (whether municipal, county, regional, state or federal) in the proper exercise of their jurisdiction.

Public Sewer System – A public sanitary disposal system designed and approved for multiple units and/or properties.

Public Water System - A public water system serving 25 or more persons .

Research, Design, and Development Laboratory – A building for experimentation in pure or applied research, design, development and production of prototype machines or of new products, and uses accessory thereto, wherein products are not manufactured for wholesale or retail sale, wherein commercial servicing or repair of commercial products is not performed, and wherein there is no outside display of any materials or products.

Resort – A parcel of land providing lodging, recreation and entertainment primarily to vacationers. A primary place of residence, a medical or other rehabilitative facility or a single-room occupancy residential project shall not be considered a resort.

Restaurant – A business enterprise engaged in preparing and serving food and beverages selected from a full menu by patrons seated at a table or counter, served by a waiter or waitress and consumed on the premises, with takeout food (if any) as an accessory use, but excluding fast food establishments.

Restaurant, Fast Food – A business enterprise primarily engaged in the sale of quickly prepared food and beverages selected by patrons from a limited line of prepared specialized items such as hamburgers, chicken, pizza, tacos, and hot dogs, for take-out and/or on-premises consumption. In the latter case, where orders are placed at a counter as opposed to table service via a waiter/waitress, in a facility where the floor area available for dining is less than one-half (1/2) of the gross floor area, and a major portion of the sales to the public is at a drive-in or standup type of counter. The term “Fast Food Restaurant” shall not include bakeries, delicatessens, or similar types of retail establishments. See also “Restaurant”.

Retail Establishments – Stores and shops where goods are sold primarily at retail. Such sales are primarily made directly to the consumer and include, but are not limited to, goods such as food and beverages; florists; shoes and clothing; hardware, paint and wallpaper; carpeting; hobby and crafts; books; furniture; antiques; art supplies; music; pharmacies; jewelry; photographic supplies; pets; gifts; stationery; sporting goods; fabrics; optical goods; launderette/laundromat, and such appliances; but excluding lumber yards, restaurants, and fast-food restaurants. Outside storage or display of goods for such is permitted only with Site Plan approval by the Planning Board.

River Related Recreational Facilities – Recreational facilities which are principally oriented toward river uses including but not limited to boat accesses and bases, bait and tackle shops, campgrounds, swimming areas, comfort areas, snack stands if part of a larger recreational facility, and other facilities which offer an array of recreational activities and services, but not including hotels, motels, restaurants, amusement parks, amenities installed for use by individual residents, and the like.

Room, Habitable – A room separated from other rooms by walls and doorways, but not including kitchens, bathrooms, or similar utility spaces, foyers or halls.

Satellite Earth Stations – Dish-shaped antennas designed to receive television broadcasts relayed by microwave signals from earth orbiting communications satellites.

Setback, Existing or Established – The median setback (front, rear or side) of all existing structures located on the same side of the street and within the same block and same zoning district.

Setback, Front – The required minimum distance from the building or use to the front lot line.

Setback, Rear – The required minimum distance from the building or use to the rear lot line.

Setback, Side – The required minimum distance from the building or use to any lot line other than to the front or rear lot lines.

Shared Sewer – This is for properties adjacent to each other that share a common sanitary disposal system. The system is to be conventional and deeded rights with maintenance agreements by all parties.

Social Hall – A structure used for periodic non-profit social events such as church dinners, weddings, penny socials, and other public gatherings.

Soil Scientist – An individual with: (1) a Bachelor’s degree from an accredited institution in soil science or a related field with a minimum of two years professional experience in natural resources management; (2) a Master’s degree in soil science or a related field; or (3) a Professional Engineer licensed in New York State.

SPDES General Permit for Construction Activities GP-02-01 – A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems GP-02-02 – A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA-established water quality standards and/or to specify stormwater control standards.

Special Use – A use which, because of its unique characteristics, required individual consideration through a site plan review process by the Planning Board as established by Section 274A of the Town Law of the State of New York. Such a use may require the meeting of certain conditions and safeguards before being permitted.

Stabilization – The use of practices that prevent exposed soil from eroding.

Stable, Private – An accessory structure in which horses are kept for private use and not for hire, remuneration or sale.

Stable, Public – A building in which any horses are kept for remuneration, hire or sale.

State Building Construction Code – Rules and regulations relating to building construction as promulgated in the New York State Uniform Building and Fire Prevention Code.

Stop-Work Order – An order issued which requires that all construction activity on a site be stopped.

Storage, Bulk – The accumulation of wholesale quantities of raw or finished materials (solids, liquids and gases) preparatory to use in a manufacturing process, or to retail sales, a permanent reserve being maintained. Junk and scrap materials do not qualify for inclusion in this category.

Stormwater – Rainwater, surface runoff, snowmelt, and drainage that does not soak into the ground but runs off into waterways.

Stormwater Hotspot – A land use or activity that generates higher concentrations of hydrocarbons, trace metals, or toxic substances that are found in typical stormwater runoff, based on monitoring studies.

Stormwater Management – The use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources, and the environment.

Stormwater Management Facility – One or a series of stormwater management practices installed, stabilized, and operating for the purpose of controlling stormwater runoff.

Stormwater Management Officer – An employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board, and inspect stormwater management practices.

Stormwater Management Practices (SMPs) – Measures, either structural or non-structural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or non-point source pollution inputs to stormwater runoff and water bodies.

Stormwater Pollution Prevention Plan (SWPPP) – A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

Stormwater Runoff – Flow on the surface of the ground resulting from precipitation.

Street – A street improved to the satisfaction of the Superintendent of Highways and one of the following: a street shown on the official map of the Town of Deerpark, or an existing Town, County, State highway or street shown on an approved subdivision plat, or a street shown on a plat filed with the County Clerk (in accordance with Section 280A of the Town Law) prior to the Planning Board’s authorization to review subdivision.

Street Line – The dividing line between a lot and a street right-of-way.

Structure – Structure means a combination of materials to form a building or other construction that is safe and stable and includes, among other things, stadiums, radio towers, sheds, storage binds, billboards, and display signs.

Surface Waters of the State of New York – Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the State or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons, which also meet the criteria of this definition are not waters of the State. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the State (such as a disposal area in wetlands) nor resulted from impoundment of waters of the State.

Trade Shop – A work shop of any person employed in a skilled trade such as, but not limited to, plumbing, electrical, heating and ventilating, painting, woodworking, carpentry and upholstery, printing and copying, machine printing, and general repair shops.

Utility, Private – Those normal and customary services to a building or group of buildings within a corporate park or subdivision necessary to provide heat, electric power, water, sanitary waste disposal, and/or fire protection.

Utility, Public – Any person, firm, corporation, or municipal agency duly authorized to furnish to the public, under public regulation, electricity, gas, water, sewage treatment, steam, cable TV, telephone, or telegraph.

Variance – A relief from the regulations of the law, granted on grounds of practical difficulties or unnecessary hardships, not self-imposed, by the Zoning Board of Appeals.

Vehicle and Equipment Sales – A building and/or area arranged, intended or designed to be used for the rental, lease, sale and/or resale of motor vehicles, new or used; boats or trailers; shipping containers and other equipment. A selection of motor vehicles, boats or trailers or other equipment may be displayed within a totally enclosed building but still others may require an outdoor area for their storage.

Vehicle Junkyard and Wrecking – An area of land, with or without buildings, used for or occupied by a deposit, collection or storage outside a completely enclosed building of used or discarded motor vehicles, or parts thereof, with or without the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles and their parts. A deposit, collection or storage on a lot of two or more motor vehicles no longer in condition for legal use on the public highways, or parts thereof, for sixty days or more in a residential district, or for ninety days or more in a non-residential district, shall constitute a motor vehicle junkyard. Farm machinery and off-highway vehicles and equipment utilized in agricultural operations shall not be deemed to constitute a motor vehicle junkyard.

Town of Deerpark Zoning Law

Vehicle, Recreational – A vehicular unit or structure primarily designed as temporary housing for recreational camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home.

Vehicle Service Establishment – A building, or a portion of a building, arranged, intended or designed to be used for making repairs to motor vehicles, their mechanical systems and their body structure (including painting). This category is intended to include, but is not limited to, “jiffy lubes”, and such repair shops as specialize in transmissions, mufflers, tires, as well as the sale of gasoline or any other motor vehicle fuel or oil or other lubricating substances.

Warehouse – A building, or part of a building, for storing of goods, wares, and merchandise whether for the owner or for others, and whether it is a public or private warehouse.

Warehouse, Self-storage – A compartmentalized warehouse in which the renter of a self-contained storage unit has direct access to the space.

Wetland - A lowland area, such as a marsh or swamp, that is saturated with moisture, especially areas regarded as the natural habitat of wildlife. Wetland to be designated as per Army Corps of Engineers and/or NYSDEC, as appropriate.

Worship, Place of – A structure used for religious observances, such as a church, a synagogue or a temple, including a church school building, a parish office, a social hall, and a storage building. A rectory or parsonage of no more than 3,000 square feet of floor area for a single family may also be included on the same lot but shall meet the requirements applicable to a single-family dwelling and be limited to occupancy by clergy and their family.

Yard – A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward, provided however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitation and requirements limiting obstruction of visibility.

Yard, Front – A yard extending between side lot lines across the front of a lot adjoining a public street. In the case of through lots or corner lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages.

Yard, Rear – A yard extending across the rear of the lot between inner side yard lines. In the case of through lots, there will be no rear yard, but only front and side yards.

Yard, Side – A yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of through lots, side yards shall extend from the rear lines of required front yards. In the case of corner lots, one of the yards remaining after the designation of front yards shall be considered the side yard, and the other the rear yard.

Zoning Officer – Chief Operating Officer, Building Inspector, Planning Board Chairman or consultant designated to direct the zoning procedures through the use of this ordinance. Zoning Officer is appointed by the Town Board.

ARTICLE 3
BASIC DISTRICT REGULATION

§ 230-5 Enumeration of Districts

The Town of Deerpark is hereby divided into the following types of districts:

RS	Residential Settlement District
RR	Rural Residential District
NR	Neighborhood Residential District
HM-U	Hamlet/Mixed Use District
IB	Interchange Business District
I-I	Industrial District
RRC	Recreational River Corridor District

PRD Planned Residential Development Districts and floodplain overlay districts are also provided for under §230-24, §230-25 and §230-17 hereof, respectively.

§ 230-6 Zoning Map

The location and boundaries of said districts are hereby established as shown on the Official Zoning Map of the Town of Deerpark, as amended this date or hereafter, which is attached hereto and made a part of this law.

§ 230-7 Interpretation of District Boundaries

- A. Zoning district boundary lines are intended generally to follow or connect the center lines of rights-of-ways; existing lot lines; the mean water level or rivers, streams, and other waterways; or Town boundary lines, all as shown on the Zoning Map; but where a district boundary line does not follow such a line, its position is shown on said Zoning Map by a specific dimension or relationship to such a line.
- B. Where a district boundary line divides a lot of record at the time such line is established, the Planning Board may allow the extension of activities permitted in one district to the other as a Special Use. This is to permit more flexibility in the use of large parcels.
- C. When the specific location of a zoning district boundary line cannot be ascertained, the Zoning Officer, Building Inspector, Planning Board, or Town Board, as the case may be, shall request the Zoning Board of Appeals to render an interpretation which shall then be used as the basis for applying zoning standards.

§ 230-8 Schedule of District Regulations

The restrictions and controls intended to regulate development in each district are set forth in the following Schedule of District Regulations which is then supplemented by other sections of this Law and other laws of the Town of Deerpark. Any use identified as a Principal Permitted Use shall be permitted as a matter of right upon application to the Building Inspector or to the Zoning Officer, provided the proposed use is in compliance with these regulations. Permitted Use with Planning Board Approval or Special Uses are subject to site plan review and, specifically, Planning Board approval as prerequisites to issuing a permit for their establishment. Accessory Uses are permitted to accompany or precede Principal Permitted and Special Uses and permits for these uses shall be issued directly by the Building Inspector with concurrence by the Zoning Officer.

§ 230-9 Setbacks with Regard to Construction Adjacent to Hunting Club Properties within the Town (Local Law No. 1 of 2005; filed with the Town Clerk on Jan. 24, 2005)

- A. Legislative Purpose: The Town of Deerpark is one of the last rural towns in Orange County, New York. The Town, under significant pressure from developers and new construction, both present and proposed, is increasing in population.

In order to protect the citizens and visitors to the Town of Deerpark as well as to protect the hunting lands still remaining within the Town, the Town Board has adopted the following regulations:

- B. Five Hundred (500') Foot Setback from Hunting Club Boundaries: New construction shall be set back five hundred (500') feet from the property line where such property line adjoins established hunting club property. The setback shall be measured from the property line in toward the proposed new construction on lots adjacent to hunting club properties. In the alternative, the new construction owner will have the option of giving the hunting club written permission to hunt within five hundred (500') feet of the dwelling and up to the property line for a period of ninety-nine (99) years from the date of said written consent and agreement. The Agreement shall be in recordable form and shall run with the land to the benefit of the hunting club and shall burden the lands where the new construction shall take place.
- C. This local law may conflict with applicable portions of the Town Law of the State of New York. It is the stated intention of the Town to exercise its authority to supersede and amend, as granted under the Municipal Home Rule Law of the State of New York Section 10. The Town hereby provides notice that is exercising its authority to supersede and amend pursuant to Municipal Home Rule Law of the State of New York Section 22.

§ 230-10 Amendment of Certain Sections of Articles II, III, and VII of the Zoning Law of the Town of Deerpark, Orange County, New York and Repealing Section 230-49 of the Deerpark Town Code (Zoning Law) (Local Law No. 5 of 2010; filed with the Town Clerk on Sept. 23, 2010)

- A. Purpose: The purpose of this local law is to make the Interchange Business District (IB) enumerated within the Zoning Law of the Town of Deerpark a more viable area for the orderly and desirable development and use of the land within said District. The proposed amendments set forth herein are intended to provide more appropriate features in order to guide new development to facilitate desirable change in this district of the Town.
- B. Legislation: Section 230-4 of Article II of the Zoning Law of the Town Deerpark has been amended to specifically repeal the definition of "HOTEL"; in the place and stead of said repealed definition a new definition has been included in Article II as per this Local Law.
- C. A definition entitled "PERMITTED USE WITH PLANNING BOARD APPROVAL" has been added to Article II of the Town's Zoning Law as per this Local Law.
- D. Article VII of the Town's Zoning Law has been changed to read "PERMITTED USES; PERMITTED USES WITH PLANNING BOARD APPROVAL; SPECIAL USES AND SITE PLAN REVIEW PROCEDURES".
- E. The following sentence has been added to the end of Section 230-40 of the Town's Zoning Law: "All enumerated procedures and regulations set forth in this Article shall also apply to site plans submitted for review and approval for all permitted uses and all permitted uses with Planning Board approval".

-
- F. The final sentence of Section 230-48 of the Town’s Zoning Law entitled “EFFECT OF SITE PLAN APPROVAL” has been amended as per this Local Law. The final sentence now reads: “Permitted use, permitted use with Planning Board approval, special use or accessory use which has been discontinued for a period of five (5) years or more years shall also be deemed to have lapsed”.
 - G. Section 230-8 of Article III of the Town’s Zoning Board has been amended to adopt a new Schedule of District Regulations for the Interchange Business District (IB) as attached to the Local Law.

§ 230-11 Applicability of Regulations

Whenever any owner or occupant of any property in the Town of Deerpark shall, for any purpose or in any manner:

- A. establish a new use;
- B. commercially clear, excavate or grade land for purposes of making permanent structural improvements to a property;
- C. change an existing use;
- D. make permanent structural improvements to a property;
- E. erect a new building;
- F. move, alter, add to or enlarge any existing land use or building

such owner or occupant shall first comply with the requirements of this Law and obtain a building/zoning permit, unless specifically exempted from such requirements by this Law. A building/zoning permit shall be required whenever a change in land use occurs, regardless whether any new construction is involved or not, excepting that agricultural harvesting, grazing, tilling, and crop rotation shall be exempt from all permit requirements. All requirements of this ordinance are to be subject to the Zoning Officer’s direction.

§ 230-12 Lot Development Standards

- A. Minimum Development Standards: The development standards contained herein are minimums and shall apply to each dwelling unit unless otherwise specifically provided. A two-family dwelling shall, for example, require the equivalent of two minimum size lots insofar as lot area, as will any two dwelling units on the same property. Single studio apartments occupied by immediate family members shall, however, be exempt from this requirement.
- B. Minimum Dwelling Standards: All detached dwellings shall provide at least 1,000 square feet of living area, possess a minimum dimension of 24 feet, longitudinally or transversely, be erected on a permanent foundation with/without basement and be equipped for year-round occupancy. Detached dwellings of less than 1,000 square feet in dwelling area that do not serve as the principal permitted use on a lot or are used for seasonal purposes only may be individually permitted as Special Uses.
- C. Corner Lot: No obstruction to vision (other than an existing building, post, column or tree) exceeding thirty (30) inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle formed by the street lot lines of such lot and a line drawn between points along such street lot lines seventy-five (75) feet distant from their points of intersection.
- D. Through Lot Requirements: A through lot shall be considered as having two (2) street frontages, both of which shall be subject to the front yard requirements of this Law.

-
- E. Minimum Lot Frontage: All residential lots shall have a front lot line with a minimum length of fifty (50) feet.
- F. Flag Lots: The development of interior lots with limited lot frontage consisting of only an access right-of-way shall be permitted provided:
1. The right-of-way is a minimum of fifty (50) feet in width, is improved according to Section 4.9.18 of the Town of Deerpark Subdivision Law and meets the requirements of the Town of Deerpark's Standard Driveway Entrance and Exit Crossing Requirements (Local Law No. 2 of 1996, as amended).
 2. The lot area shall be exclusive of that portion used as a right-of-way for purposes of meeting minimum lot area and all other development standards for the District.
 3. No right-of-way shall be established over an existing parcel of land to reach a new lot to the rear which would reduce the length of the front lot line of the existing parcel to less than fifty (50) feet nor create any non-conforming lot or building. Such front lot shall also front on the right-of-way serving the lot or lots to the rear.
 4. All flag lot access right-of-ways shall be titled in fee-simple ownership to the flag lot property owner and shall not be used to access any property not part of the original tract. Such owner shall bear responsibility for maintenance of the improvements.

§ 230-13 Height Restrictions

No building or structure shall exceed in building height the number of feet permitted as a maximum on the Schedule of District Regulations for the district where such building or structure is located.

§ 230-14 Yard Regulations

- A. Side Yard Exception: Where the side wall of a building is not parallel with the side lot line or is irregular, the side yard may be varied. In such case, the average width of the side yard shall not be less than the otherwise required minimum width; provided, however, that such yard shall not be narrower at any point than one-half (1/2) the otherwise required minimum width.
- B. Front Yard Exception: When an unimproved lot is situated adjacent to or between improved lots already having a principal building within the required front yard, the front yard for the unimproved lot may be reduced to the average depth of the front yards for the two (2) nearest adjacent improved lots, but not less than thirty (30) feet from the centerline.
- C. Provision of Yard or Other Open Space: No yard or other open space provided about any buildings for the purpose of complying with the provisions of the law shall be considered as providing a yard or open space for any other building, and no yard or other open space on another lot shall be considered as providing a yard or open space for a building on any other lot.
- D. Waterfront Yards: Any yard which borders on a New York State Department of Environmental Conservation classified lake, stream, or body of water shall be not less than one-hundred (100) feet in depth except for boathouses and docks.

§ 230-15 Accessory Structure and Use Standards

The location, limitation, and coverage of accessory buildings shall be as follows:

- A. No accessory building permitted by this Law shall be placed in any required side or front yard except as provided in this Article.
- B. Accessory structures utilized for storage of farm equipment or farm storage, construction equipment, recreation equipment shall be allowed without a primary principle structure. However, if utilized for commercial endeavors, it must have Planning Board approval.
- C. The aggregate ground area covered by any accessory buildings in any rear yard shall not exceed fifty percent (50%) of the rear yard area.
- D. Accessory structures not attached to a principal structure shall:
 - 1. Be located not less than ten (10) feet from any side or rear lot line or in such a fashion as to prevent emergency firefighting access or to shade a residential structure on an adjoining lot. Any structure over 1,000 square feet in floor area shall meet setbacks for principal structures.
 - 2. Be no closer to the street than any principal structure on the lot, except in the case of farm buildings and swimming pools. Accessory buildings to principal structures located more than one-hundred (100) feet from a lot line shall also be exempt. Accessory structures may, in these situations, be located in front of residences but not in required front yard areas.
- E. Accessory structures of more than 1 story in height within required side or rear yards shall be Special Uses.
- F. When an accessory structure is attached to the principal building, it shall comply with requirements for principal buildings except that it may be located not less than 10 feet from one side or rear lot line, or in such fashion as to prevent emergency fire fighting access or to shade a residential structure on an adjoining lot.
- G. Railroad cars, mobile homes units and recreational vehicles shall not be used for purposes of accessory or principal structures in connection with any use. The use of storage trailers or bulk/shipping containers as an accessory use in connections with a commercial or institutional use shall be permitted on a Special Use basis where the trailers or containers can be substantially screened from view with evergreen plantings, fencing or earthen berms as may be required to accomplish the purpose.
- H. Above ground or in-ground swimming pools, incidental to the residential use of the premises and not operated for gain shall require permits if more than two (2) feet deep. A private swimming pool shall not be located, constructed or maintained on any lot or land area, except in conformity with the following requirements:
 - 1. Such pool shall not be located within 10' of any property line.
 - 2. The entire portion of the premises upon which any pool of less than four (4) feet in height above the ground is located shall be entirely enclosed with a good quality chain link wire or equally sturdy fence of not less than four (4) feet in height.
 - 3. Every gate or other opening in the fence enclosing such pool shall be kept securely closed and locked at all time when said pool is not in use.

Town of Deerpark Zoning Law

4. Such pool shall be not less than ten (10) feet from side and rear lot lines, and on lots with a width of fifty (50) feet or less the pool shall be located midway between the side lot lines.
 5. If the water for such pool is supplied from a private well, there shall be no cross-connection with the public water supply system.
 6. If the water for such pool is supplied from the public water supply system, the inlet shall be above the overflow level of said pool.
 7. Such pool shall be constructed, operated, and maintained in compliance with the applicable provisions of the New York State Sanitary Code relating to public swimming pools.
 8. No loudspeaker or amplifying device shall be permitted which can be heard beyond the bounds of the property lot where said pool is located.
 9. Underwater lighting shall only be installed in accordance with the provisions of the National Electrical Code for such lighting.
- I. Keeping of a reasonable number of domestic animals for household purposes, or as pets, and private stables shall be permitted in every district subject to the requirements of the Town of Deerpark Dog Law (Local Law No. 13 of 2000, as amended) and the following conditions:
1. Not more than four (4) dogs over six (6) months old, nor more than one (1) litter under six (6) months shall be kept unless permitted as a commercial or not-for-profit kennel.
 2. Not more than twenty-five (25) fowl, nor more than four (4) domestic animals other than dogs and cats shall be kept on any lot unless permitted as a commercial agricultural operation (see also Section 5.11 hereof).
 3. There shall be no stable or similar animal or fowl housing or storage of manure within two-hundred (200) feet of any adjacent dwelling.
 4. All animals, except dogs (see Town Dog Law), shall be contained by fence or leash within the boundaries of the owner's property. Any penning area less than one (1) acre in size shall be setback twenty-five (25) feet from any lot line.
- J. Permanent fences erected for purposes other than confinement of farm livestock shall be located; a minimum of eighteen (18) inches from property lines unless the Building Department receives an as-built survey of the fence certified by a New York State Licensed Surveyor; eight (8') feet from roadway surface; and require permits under this Law. Vegetative fences shall be setback a distance sufficient to maintain all growth on the property affected. Fences erected in front yards in RR, RRC, and RS Districts shall be a maximum of four (4) feet in height where six (6) feet high fences may be permitted. Fences erected in rear yards shall be a maximum of six (6) feet in height. Fences erected in I-I Industrial District rear yards or for commercial uses within HM-U Hamlet Mixed-Use Districts shall be a maximum of eight (8) feet in height. Sight distance must be maintained. Fencing subject to Building Inspector's comments. Approval for fencing not complying with the above would be by Zoning Board of Appeals.
- K. At all street intersections, no obstructions to vision shall be maintained, erected, or planted on any lot within the triangle formed by the intersecting street lines and a line drawn between points along such street lines for a thirty (30) foot distance from their point of intersection.
- L. Storage trailers or bulk/shipping containers may be used in connection with new construction or renovation for a period of up to one (1) year by permit only. Final C.O. shall be withheld by the Building Inspector until the container is removed from the property.

Town of Deerpark - Zoning Law – Schedule of District Regulations

District Intent	Principal Permitted Uses	Special Uses	Accessory Uses	Development Standard				
HM-U Hamlet Mixed-Use District: This district is intended to provide areas for moderate to high density residential development and compatible commercial and industrial uses.	One-family dwellings Two-family dwellings Agricultural uses Equestrian uses Home occupations Public and semi-public uses Small engine machine repair and sales Permitted Uses with Planning Board Approval Bed and breakfast facilities Building contractor yards Building supply/lumber yards Business services and trade shops Business/professional offices Camps and campgrounds Commercial greenhouses Conference centers Continuing care facility Essential services Funeral homes Health care, rehabilitative and medical facilities Hotels, motels and resorts Light manufacturing Manufactured home parks Multi-family dwellings Nursery schools Personal service shops Places of worship Restaurants Retail stores and shopping centers Saw and planing mills Self-storage warehouses Vehicle and equipment sales Vehicle service establishments Wholesale establishments	Animal hospitals, kennels and veterinary offices Cemeteries Extractive uses Indoor/outdoor recreation facilities Nursing and senior care facilities Parking lot without principle use Planned residential developments Social halls Shooting ranges and skeet facilities Telecommunication facilities Trucking Business Vehicle junkyard wrecking	Garages Home-energy generation devices Parking areas Private stables Private swimming pools Signs Storage sheds Other activities or structures customarily accessory to permitted principal or special uses Other activities or structures without principle uses for farm, recreation, and construction storage	Development Standard				
				A*	B*	C*	D*	
				Minimum average lot width/depth	100/100 FT	100/150 FT	125/200 FT	200/200 Ft
				Front yard	35 ft	35 ft	35 ft	35 ft
				Rear yard	35 ft	35 ft	35 ft	35 ft
				Side yard	20 ft	20 ft	35 ft	35 ft
				Max. build height	75 ft+	75 ft+	75 ft+	75 ft+
				Min. floor area	1000 ft	1000 ft	1000 ft	1000 ft
				Max bldg coverage	20%	20%	40%	40%
				Max. impervious coverage	70%	70%	70%	70%
Min. lot area	10,000 SF	15,000 SF	25,000 SF	40,000 SF				

*A. Public Water and Sewer
 *B. Public Sewer Only

*C. Shared Sewer Only
 *D. No Water and Sewer

+ Subject to Fire Department capabilities

Town of Deerpark - Zoning Law – Schedule of District Regulations

District Intent	Principal Permitted Uses	Special Uses	Accessory Uses	Development Standard					
<p>RR Rural Residential District: This district is intended to protect the rural character of that portion of Deerpark which is subject to natural limitations or in public or semi-public use as open space and to provide for wildlife, recreation, forestry, and conservation uses in general.</p>	<p>One-family dwellings Two-family dwellings Agricultural uses Equestrian uses Home occupations Hunting clubs Public and semi-public uses</p> <p>Permitted Uses with Planning Board Approval Bait and tackle shops Bed and breakfast facilities Camps and campgrounds Commercial greenhouses Essential services Funeral homes Hotels, motels and resorts Nursery schools Places of worship Residential conversions Saw and planing mills</p>	<p>Animal hospitals, kennels and veterinary offices Cemeteries Extractive uses Planned residential developments Shooting ranges and clay targets Social halls Telecommunication facilities Vehicle repair garage</p>	<p>Garages Home-energy generation devices Parking areas Private swimming pools Private stables Signs Storage sheds Other activities or structures customarily accessory to permitted principal or special uses Other activities or structures without principle uses for farm, recreation and construction storage</p>	Development Standard					
				A*	B*	C*	D*		
				Minimum average lot width/depth	100/100 FT	100/150 FT	125/200 FT	200/200 Ft	
				Front yard	35 ft	35 ft	35 ft	35 ft	
				Rear yard	20 ft	20 ft	35 ft	35 ft	
				Side yard	20 ft	20 ft	35 ft	35 ft	
				Max. build height	35 ft	35 ft	35 ft	35 ft	
				Min. floor area	1000 ft	1000 ft	1000 ft	1000 ft	
				Max bldg coverage	20%	20%	20%	20%	
				Max. impervious coverage	70%	70%	70%	70%	
				Min. lot area	10,000 SF	15,000 SF	25,000 SF	1 AC	
<p>RS Residential Settlement District: This district is intended to protect the integrity of single-family residential areas of the Town from commercial and industrial intrusions that could cause a decline in the quality of life within these generally single-purpose sections of the Town.</p>	<p>One-family dwellings Public and semi-public uses Agricultural uses Equestrian uses Permitted Uses with Planning Board Approval Bed and breakfast facilities Essential services Home occupations</p>		<p>Garages Home-energy generation devices Parking areas Private stables Private swimming pools Signs Storage sheds Other activities or structures customarily accessory to permitted principal or special uses Other activities or structures without principle uses for farm, recreation and construction storage</p>	Development Standard					
				Minimum average Lot width/depth:	200 feet				
				Minimum yards:	Front	50 feet			
					Side	35 feet			
					Rear	50 feet			
				Maximum bldg. height	35 feet				
				Min. floor area (§ 3.6):	1,000 sq. ft.				
				Maximum bldg. coverage	20%				
				Minimum lot area:	2 Ac.				

*A. Public Water and Sewer

*B. Public Sewer Only

*C. Shared Sewer Only

*D. No Water and Sewer

Town of Deerpark - Zoning Law – Schedule of District Regulations

District Intent	Principal Permitted Uses	Special Uses	Accessory Uses	Development Standard
<p>RRC Recreational River Corridor District: This district is intended to complement designation of the Upper Delaware River as a National Scenic and Recreational River and to help implement the River Management Plan to which the Town is a party.</p>	<p>One-family dwellings Two-family dwellings Agricultural uses Equestrian uses Home occupations Hunting clubs Public and semi-public Uses</p> <p>Permitted Use with Planning Board Approval Bait and tackle shops Essential services Hotels, motels and resorts Membership clubs Nursery schools Places of worship Residential conversions River-related recreational facilities</p>	<p>Camps and campgrounds Cemeteries Social halls</p>	<p>Garages Home-energy generation devices Parking areas Private swimming pools Private stables Signs Storage sheds Other activities or structures customarily accessory to permitted principal or special uses Other activities or structures without principle uses for farm, recreation and construction storage</p>	<p>Minimum average Lot width/depth: 200 feet</p> <p>Minimum yards: Front 50 feet Side 50 feet Rear 150 feet</p> <p>Minimum setback from River 150 feet Maximum bldg. height 35 feet Min. floor area (§ 3.6): 1,000 sq.ft. Maximum bldg. coverage 20% Minimum lot area: 2 acres</p> <p>* A minimum of 150 feet River frontage is required</p>
<p>NR Neighborhood Residential District: This district is intended to provide for commercial and mixed-use development within key neighborhoods and at relatively high density for the purpose of meeting the needs of residents for goods and services.</p>	<p>One-family dwellings Two-family dwellings Public and semi-public uses</p> <p>Permitted Uses with Planning Board Approval Convenience stores without gasoline Home occupations Hotels, motels and resorts Nursery schools Places of worship Residential conversions River-related recreation</p>	<p>Cemeteries Parking lot without principle use Social halls</p>	<p>Garages Parking areas Private stables Private swimming pools Signs Storage sheds Other activities or structures customarily accessory to permitted principal or special uses Other activities or structures without principle uses for farm, recreation and construction storage</p>	<p>Minimum average Lot width/depth: 100/200 feet *</p> <p>Minimum yards: Front 20/50 feet * Side 35 feet Rear 20/50 feet *</p> <p>Maximum bldg. height 35 feet Min. floor area (§ 3.6): 1,000 sq. ft. Maximum bldg. coverage 20% Minimum lot area: ½ Ac./1 Ac. *with/without community wastewater</p>

Town of Deerpark - Zoning Law – Schedule of District Regulations

District Intent	Principal Permitted Uses	Special Uses	Accessory Uses	Development Standard					
				Development Standard					
				A*	B*	C*	D*		
<p>I-1 Industrial District: This district is intended for industrial and like uses which are of large scale or involve intense activity which could generate more substantial impacts on surrounding properties than would be the case in the IB District or HM-U District.</p>	<p>None</p> <p>Permitted Uses with Planning Board Approval</p> <p>Building contractor yards Building supply/lumber yards Business services Business/professional offices Essential services Industrial parks Light manufacturing with outside storage areas Vehicle junkyard and wrecking Wholesale establishments</p>	<p>Adult uses (see § 230-36) Extractive uses Parking lots without principle use Telecommunication facilities</p>	<p>Bulk storage Garages Parking areas Signs Storage sheds Other activities or structures customarily accessory to permitted principal or special uses. Other activities or structures without principle uses for farm, recreation and construction storage</p>	<p>Minimum average lot width/depth</p> <p>Front yard</p> <p>Rear yard</p> <p>Side yard</p> <p>Max. build height</p> <p>Min. floor area</p> <p>Max bldg coverage</p> <p>Max. impervious coverage</p> <p>Min. lot area</p>	<p>100/100 FT</p> <p>20 ft</p> <p>20 ft</p> <p>15 ft</p> <p>75 ft**</p> <p>600 ft</p> <p>40%</p> <p>70%</p> <p>10,000 SF</p>	<p>100/150 FT</p> <p>20 ft</p> <p>20 ft</p> <p>15 ft</p> <p>75 ft**</p> <p>600 ft</p> <p>40%</p> <p>70%</p> <p>15,000 SF</p>	<p>125/200 FT</p> <p>35 ft</p> <p>35 ft</p> <p>15 ft</p> <p>75 ft**</p> <p>600 ft</p> <p>40%</p> <p>70%</p> <p>25,000 SF</p>	<p>200/200 Ft</p> <p>35 ft</p> <p>35 ft</p> <p>15 ft</p> <p>75 ft**</p> <p>600 ft</p> <p>40%</p> <p>70%</p> <p>40,000 SF</p>	
**Subject to Fire Department capabilities									

- *A. Public Water and Sewer
- *B. Public Sewer Only
- *C. Shared Sewer Only
- *D. No Water and Sewer

Town of Deerpark - Zoning Law – Schedule of District Regulations

District Intent	Principal Permitted Uses with Planning Board Approval	Special Uses	Accessory Uses	Development Standard				
				A*	B*	C*	D*	
IB Interchange Business District: This district is intended to provide for the general development of business at significant highway interchange areas and attracting business from within both the region and the Town. Principal Permitted Uses Home occupations	Animal Hospitals and veterinary offices Building supply/lumber yards Business service and trade shops Business/professional offices Clubhouses/fraternal uses Commercial greenhouses Essential services Health care, rehabilitative and medical facilities Home occupations Hotels with extended stay Motels and resorts Nursing and senior care facilities Personal service shops Restaurants/Fast Food Centers Retail stores and shopping Centers Trucking Business Vehicle: equipment, sales, and services Wholesale establishments	Billboards Building contractor yards Extractive uses Indoor/outdoor recreation facilities Light manufacturing Movie houses and Outdoor theatres Parking lots without principle uses Self-storage warehouses Vehicle service establishments	Bulk storage Dwellings accessory to commercial uses Garages Parking areas Private swimming pools Signs Storage sheds Other activities or structures customarily accessory to permitted principal or special uses Other activities or structures without principle uses for farm, recreation and construction storage	Minimum average lot width/depth	100/100 FT	100/150 FT	125/200 FT	200/200 Ft
				Front yard	20 ft	20 ft	35 ft	35 ft
				Rear yard	20 ft	20 ft	35 ft	35 ft
				Side yard	15 ft	15 ft	15 ft	15 ft
				Max. build height	75 ft**	75 ft**	75 ft**	75 ft**
				Min. floor area	600 ft	600 ft	600 ft	600 ft
				Max bldg coverage	40%	40%	40%	40%
				Max. impervious coverage	70%	70%	70%	70%
				Min. lot area	10,000 SF	15,000 SF	25,000 SF	40,000 SF

*A. Public Water and Sewer

*B. Public Sewer Only

*C. Shared Sewer Only

*D. No Water and Sewer

** Subject to Fire Department capabilities

ARTICLE 4
GENERAL SUPPLEMENTARY REGULATIONS

§ 230-16 Parking, Loading, Access, and Traffic Standards

A. Off-street parking, loading, and unloading facilities shall be provided as necessary in connection with every use. One-family and two-family residential uses shall be provided with two (2) off-street parking spaces per dwelling unit. Parking needs with respect to all other uses shall be determined in conjunction with site plan review. The amount of parking required shall be based on the following factors:

1. Industry studies of parking needs for the type of use proposed or actual case-study comparisons for projects of similar character. The Planning Board may require the developer or applicant to gather and submit such data in support of its proposed parking provisions. The National Parking Association and the Urban Land Institute are examples of such industry sources.
2. The characteristics of the proposed customers, residents, occupants, or visitors to a given facility. Housing for the elderly would, for example, require fewer spaces per dwelling unit than time-shared recreational units, though the number of dwelling units might be the same.
3. The expected occupancy rates, traffic levels, and numbers of employees in connection with any enterprise and the degree to which these directly relate to parking requirements.
4. Recommendations, if any, from other public agencies or information sources which suggest, based on experience, the appropriate amount of parking in connection with a given use.
5. The likelihood that parking will be shared with adjoining facilities, the impact of daily peak visitation or use periods on demand, and the hours of operation as compared to other neighborhood activities.
6. Where industry standards are inadequate for the particular use or site involved or such standards are unavailable, the following standards may be applied by the Planning Board, Zoning Board Officer, or the Building Inspector, as the case may be:

Home-occupations	1 space per 100 sq. ft. of floor area devoted to use
Hotels/motels	1 space per rental room
Industrial uses	1 space per 400 sq. ft. of floor area
Commercial uses	1 space per 250 sq. ft. of floor area
Places of public assembly	1 space per 5 seats
Offices	1 space per 300 sq. ft. of floor area
Restaurants	1 space per 50 sq. ft. of floor area
Vehicle service establishments	4 spaces per 1 per employee
Multiple Dwelling	2 spaces per dwelling unit

A. Each parking space shall consist of not less than an average of two-hundred-seventy (270) square feet of usable area for each motor vehicle, including interior driveways, driveways connecting the garage, or parking space, with a street or alley. Garages, carports, and driveways not in the public right-of-way may be considered parking spaces. Parking stalls shall be a minimum of nine (9) feet wide and eighteen (18) feet deep.

- B. Any lighting used to illuminate any off-street parking shall be so shielded as to deflect the light away from adjoining premises and public right-of-ways and avoid light spillage onto adjacent properties.
- C. All parking areas which are designed to accommodate twelve (12) or more vehicles shall be landscaped using materials of sufficient growth and height to aesthetically balance the impact of the open paved area and provide effective stormwater control. The following are guideline standards the Planning Board may apply:
 - 1. No more than twelve (12) parking spaces should be allowed in a continuous row uninterrupted by landscaping.
 - 2. No parking areas should be designed such that a vehicle might directly back out onto a public highway or through road within the development. Traffic flows through a parking area should be minimized and limited to connections from one lot to another and to the public highway or through road.
 - 3. Commercial parking areas, where possible, should generally be located in the rear yard of any use, with the principal building situated near the front lot line as permitted by Schedule of District Regulations. This is for the purpose of maintaining the continuity of the building line along any highway and avoiding the effective merger of parking areas along a highway into one mass of pavement where entrances and exits become difficult to identify.
- D. Any building erected, converted or enlarged for commercial, office, manufacturing, wholesale, institutional, or similar uses shall, in addition to the off-street parking space required above, provide adequate off-street areas for loading and unloading of vehicles. Public rights-of-way shall, under no circumstance, be used for loading or unloading of materials. The minimum size loading space shall be sixty (60) feet in depth and twelve (12) feet in width, with an overhead clearance of fourteen (14) feet. The number of spaces to be determined or waived by the Planning Board.
- E. Access to and from all non-residential off-street parking, loading, and vehicle service areas along public rights-of-way shall consist of well defined separate or common entrances and exits and shall comply with the following provisions:
 - 1. Access drives shall comply with all requirements of Local Law 2 of 1996 (Town of Deerpark Driveway Law, as amended in Local Law 3 of 2008). Access drives onto State and County highways shall be subject to New York State Department of Transportation and Orange County standards, as the case may be.
 - 2. Each entrance and exit shall be clearly defined with curbing, fencing or vegetative screening so as to prevent access to the area from other than the defined entrance and exits.
 - 3. All access drives shall be subject to the requirement of obtaining a driveway permit from the Town of Deerpark Highway Superintendent, the Orange County Department of Public Works, or the New York State Department of Transportation, as the case may be, and approval of any permits hereunder may be conditioned upon the application for and/or receipt of such permits from these authorities.
 - 4. No use shall be permitted which requires year-round access from a Town highway which has been designated by the Town of Deerpark Town Board as a low volume or minimum maintenance seasonal highway pursuant to Section 205-a of the New York State Highway Law.
 - 5. For reasons of traffic and pedestrian safety, both on and off the street, as well as to provide for possible future road widening or other improvements, all new driveways and sidewalk crossings entering onto any street shall comply with all the requirements of this chapter, including but not limited to obtaining the appropriate permits and the payment of any and all

fees for said permits, and shall be subject to the approval of the Superintendent of Highways, except where such are part of a use subject to special permit or site development plan approval, in which case they shall also be subject to Planning Board approval.

6. No driveway centerline shall intersect a street line less than seventy (70) feet from the intersection of any two (2) street lines.
7. Driveway grades:
 - a. The maximum grade for new subdivisions, concerning a driveway accessory to a single-family dwelling and connecting its off-street parking area to a street shall be ten percent (10%), except where it can be demonstrated to the satisfaction of the approving authority that, because of unreasonable hardship affecting a particular property, the construction of a driveway shall be permitted, provided that the increase in driveway grade is the minimum increase required, and further provided that in no case shall such driveway grade be permitted to exceed twelve percent (12%).
 - b. The maximum grade for new driveways accessory to uses other than single-family dwellings and connection the required off-street parking area to the street shall not exceed seven percent (7%), except that the approving authority shall have the same power to permit increased grades here as above, provided that such grades shall in no case exceed ten percent (10%).
 - c. Notwithstanding the maximum permitted grades specified above, all driveways shall have a negative 2 percent (-2%) grade within fifty (50) feet of the centerline of the traveled way of the street, or within twenty-five (25) feet of the property line of the street, whichever distance is greater. The Planning Board may require increased platform areas of this type in situations where, because of the nature of the proposed use, substantial traffic volumes are anticipated.
8. Clear visibility shall be provided in both directions at all exit points so that the driver of an automobile stopped on the platform portion of any new driveway will have an unobstructed view of the highway for a reasonable distance (commensurate with the speed and volume of traffic on such highway) and so that there is a similar view of the automobile in the driveway.
- F. All non-residential parking and loading areas and parallel circulation and service lanes shall be separated from the paving edge of a public thoroughfare or adjoining property lines by a planting strip at least twenty (20) feet in depth landscaped according to § 230-55.
- G. Traffic Study: The Planning Board, at its discretion, may require a traffic impact study by an independent engineer with any Special Use application involving an activity likely to generate more than five-hundred (500) trip-ends per day based on the following daily rates:

Residential uses	9.6 trip-ends per dwelling unit
Industrial uses	3.3 trip-ends per employee
Restaurants	7.9 trip-ends per seat
Fast-food restaurants	23.9 trip-ends per seat
Convenience market	605.6 trip-ends per 1,000 sq. ft. of gross floor area
Supermarket	177.6 trip-ends per 1,000 sq. ft. of gross floor area
Car wash	108.0 trip-ends per car stall
Offices	6.0 trip-ends per employee
Other commercial uses	50.0 trip-ends per 1,000 sq. ft. of gross floor area
Institutional uses	4.0 trip-ends per employee
Other uses	See "Trip Generation" – Institute of Transportation Engineers

The study shall examine the existing and projected traffic flows before and after development and generally follow the guidelines set forth for such studies by the Institute of Transportation Engineers. Its purpose shall be to ensure that proposed developments do not adversely affect the transportation network and to identify any traffic problems associated with access to the site from the network. It shall identify solutions to potential problems and any improvements needed. The scope of the study shall be approved in advance by the Planning Board with the final product incorporated in the SEQRA submission.

- I. Parking lots without principle uses are allowed in specific zones as a Special Use.

§ 230-17 Floodplain Development Standards
(Local Law No. 1 of 2009; filed with the Town Clerk on June 1, 2009)

- A. Findings:

The Town Board of the Town of Deerpark finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Deerpark and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purpose and objectives hereinafter set forth, this local law is adopted.

- B. Statement of Purpose

It is the purpose of this Local Law to promote public health, safety, and general welfare, and to minimize public and private losses due to flood conditions, in specific areas by provisions designed to:

1. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural preservation barriers which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase erosion or flood damages;
5. Regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and
6. Qualify and maintain for participation in the National Flood Insurance Program.

- C. Objectives

The objectives of this local law are:

1. To protect human life and health;
2. To minimize expenditure of public money for costly flood control projects;

3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
6. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
7. To provide that developers are notified that property is in an area of special flood hazard; and
8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their action.

D. Definitions

Unless specifically defined below, words or phrases used in the Local Law shall be interpreted so as to give them the meaning they have in common usage and to give the Local Law its most reasonable application.

“Appeal” means a request for a review of the Local Administrator’s interpretation of any provision of the Local Law or a request for a variance.

“Area of shallow flooding” means a designated AO, AH, or VO Zone on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

“Area of special flood hazard” is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of the Local Law, the term “special flood hazard area (SFHA) is synonymous in meaning with the phrase “area of special flood hazard”.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year.

“Basement” means that portion of a building having its floor subgrade (below ground level) on all sides.

“Building” – see “Structure”

“Cellar” has the same meaning as “Basement”.

“Crawl Space” means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete, or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

“Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

“Elevated building” means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-V30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated

floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, “elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, “elevated building” also includes a building otherwise meeting the definition of “elevated building”, even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

“Federal Emergency Management Agency” means the Federal agency that administers the National Flood Insurance Program.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

“Flood or “Flooding” also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

“Flood Boundary and Floodway Map (FBFM)” means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community’s Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

“Flood Elevation Study” means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

“Flood Insurance Rate Map (FIRM)” means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

“Flood Insurance Study” – see “Flood Elevation Study”.

“Floodplain” or “Flood-prone Area” means any land area susceptible to being inundated by water from any source (see definition of “Flooding”).

“Floodproofing” means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

“Floodway” – has the same meaning as “Regulatory Floodway”.

“Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and

unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

“Highest adjacent grade” means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

“Historic structure” means any structure that is:

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

“Local Administrator” is the person appointed by the community to administer and implement the Local Law by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

“Lowest floor” means lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building’s lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of the Local Law.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a “Recreational vehicle”.

“Manufactured home park or subdivision” means a parcel (or contiguous parcel) of land divided into two or more manufactured home lots for rent or sale.

“Mean sea level” means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD), or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

“Mobile home” – has the same meaning as “Manufactured home”.

“New construction” means structures for which the “start of construction” commenced on or after the effective of a floodplain management regulation adopted by the community and includes and subsequent improvements to such structure.

“One hundred year flood” or “100-year flood” – has the same meaning as “Base Flood”.

“Principally above ground” means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

“Recreational vehicle” means a vehicle which is:

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

“Regulatory Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designed height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in this Law.

“Start of construction” means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundation, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. The term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
2. Any alteration of a “Historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “Historic structure”.

“Variance” means a grant of relief from the requirements of the Local Law which permits construction or use in a manner that would otherwise be prohibited by the Local Law.

E. Lands to Which the Local Law Applies

Town of Deerpark Zoning Law

The Local Law applies to all areas of special flood hazard within the jurisdiction of the Town of Deerpark, Orange County.

F. Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard for the Town of Deerpark, Community Number 360612, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

1. Flood Insurance Rate Map Panel Numbers:

36071C0039E, 36071C0043E, 36071C0044E, 36071C0182E, 36071C0184E,
36071C0192E, 36071C0205E, 36071C0206E, 36071C0207E, 36071C0208E,
36071C0209E, 36071C0211E, 36071C0212E, 36071C0213E, 36071C0214E,
36071C0216E, 36071C0217E, 36071C0218E, 36071C0219E, 36071C0226E,
36071C0227E, 36071C0228E, 36071C0229E, 36071C0231E, 36071C0236E,
36071C0237E, 36071C0238E, 36071C0377E, 36071C0381E, 36071C0382E,

whose effective date is August 3, 2009, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

2. A scientific and engineering report entitled "Flood Insurance Study, Orange County, New York, All Jurisdictions", dated August 3, 2009.

The above documents were adopted and declared to be part of the Local Law. The Flood Insurance Study and/or maps are on file at:

Office of the Town Clerk, Town of Deerpark, Town Hall, 420 Route 209, Huguenot, NY 12746.

G. Interpretation and Conflict with Other Laws

The Local Law includes all revisions to the National Flood Insurance Program through March 20, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of the Local Law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of the Local Law are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, or Local Laws, the most restrictive, or that imposing the higher standards, shall govern.

H. Severability

The invalidity of any section or provision of the Local Law shall not invalidate any other section or provision thereof.

I. Penalties for Non-Compliance

No structure in an area of special flood hazard shall be constructed, located, extended, converted, or altered, and no land shall be excavated or filled without full compliance with the terms of the Local Law and any other applicable regulations. Any infraction of the provisions of the Local Law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates the Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Deerpark from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of the Local Law for which the developer and/or owner has not applied for and received an approved

variance will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

J. Warning and Disclaimer of Liability

The degree of flood protection required by the Local Law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. The Local Law does not imply that land outside the area of special flood hazards of uses permitted within such areas will be free from flooding or flood damages. The Local Law shall not create liability on the part of the Town of Deerpark, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on the Local Law or any administrative decision lawfully made there under.

K. Designation of the Local Administrator

The Building Inspector is hereby appointed Local Administrator to administer and implement the Local Law by granting or denying floodplain development permits in accordance with its provisions.

L. The Floodplain Development Permit

1. Purpose

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

2. Fees

All applications for a floodplain development permit shall be accompanied by an application fee of \$100.00. In addition, the applicant shall be responsible for reimbursing the Town of Deerpark for any additional costs necessary for review, inspection, and approval of the project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

3. Application for a Permit

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- a. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE, or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- b. The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.

- c. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section “UTILITIES”.
- d. A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section “NON-RESIDENTIAL STRUCTURES”.
- e. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations, or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 230-17(C)(F) when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- f. A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- g. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

M. Duties and Responsibilities of the Local Administrator

Duties of the Local Administrator shall include, but not be limited to the following:

1. Permit Application Review

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- a. Review all applications for completeness, particularly with the requirements of subsection 230-17(L)(3) “Application for a Permit”, and for compliance with the provisions and standards of the Local Law.
- b. Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 230-17(M)(4), “Construction Standards”, and in particular subsection 230-17(N)(1) “Subdivision Proposals”.
- c. Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g. stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section “Construction Standards”, no permit shall

be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- d. Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal Law.

2. Use of Other Flood Data

- a. When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, including data developed pursuant to Paragraph 4.2.4 (7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of the Local Law.
- b. When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of the Law.

3. Alteration of Watercourses

- a. Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- b. Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4. Construction Stage

- a. In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- b. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

5. Inspections

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the

development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

6. Stop Work Orders

- a. The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 230-17(I).
- b. The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 230-17(I) of the Local Law.

7. Certificate of Compliance

- a. In areas of special flood hazard, as determined by documents enumerated in Section 230-17(F), it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of the Local Law.
- b. A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- c. Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 230-17(M)(5) "Inspections", and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which have been required as a condition of the approved permit.

8. Information to be Retained

The Local Administrator shall retain, and make available for inspection, copies of the following:

- a. Floodplain development permits and certificates of compliance;
- b. Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 230-17(M)(1) and 230-17(M)(2) and whether or not the structures contain a basement;
- c. Floodproofing certificates required pursuant to sub-section 230-17(M)(1) and whether or not the structures contain a basement;
- d. Variances issued pursuant to Section 230-17(O)(F) "Variance Procedures", and
- e. Notices required under sub-section 230-17(M)(3) "Alteration of Watercourses".

N. General Standards

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 230-17(F)(1).

1. Subdivision Approvals

Town of Deerpark Zoning Law

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions).

- a. Proposals shall be consistent with the need to minimize flood damage;
- b. Public utilities and facilities such as sewer, gas, electrical, and water systems shall be located and constructed so as to minimize flood damage; and
- c. Adequate drainage shall be provided to reduce exposure to flood damage.

2. Encroachments

- a. Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - i. The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or
 - ii. The Town of Deerpark agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Deerpark for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Deerpark for all costs related to the final map revision.
- b. On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 230-17(F), no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
 - i. A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or
 - ii. The Town of Deerpark agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Deerpark for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Deerpark for all costs related to the final map revisions.

O. Standards for all Structures

1. Anchoring

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind force.

2. Construction Materials and Methods.
- a. New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
 - b. New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
 - c. For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Design for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - ii. The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.

3. Utilities
- a. New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at or above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated to or above the base flood elevation unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;
 - b. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 - c. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and
 - d. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. Residential Structures

a. Elevation

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections “Subdivision Proposals”, “Encroachments”, and “Standards for all Structures”.

- i. Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
- ii. Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- iii. Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community’s Flood Insurance Rate Map (at least two feet if no depth number is specified).
- iv. Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5. Non-Residential Structures

The following standards apply to new and substantially improved commercial, industrial, and other non-residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections “Subdivision Proposals”, “Encroachments”, and “Standards for all Structures”.

- a. Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:
 - i. Have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
 - ii. Be floodproofed so that the structure is watertight below two feet above the base flood elevation with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- b. Within Zone AO, new construction and substantial improvements of non-residential structures shall:
 - i. Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community’s FIRM (at least two feet if no depth number is specified); or

- ii. Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified.
- c. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 230-17(O)(5)(a)(i), including specified elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- d. Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- e. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

6. Manufactured Homes and Recreational Vehicles

The following standards in addition to the standards “General Standards” and “Standards for all Structures” apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- a. Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
 - i. Be on site fewer than 180 consecutive days from April 1 to November 1;
 - ii. Be on site fewer than 150 consecutive days from November 1 to March 31;
 - iii. Be fully licensed and ready for highway use; or
 - iv. Meet the requirements for manufactured homes.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- b. A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- c. Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement.
- d. Within Zone AO, the floor shall be elevated above the highest adjacent grade at east as high as the depth number specified on the Flood Insurance Rate Map (at least two feet if no depth number is specified).

F. Variance Procedure

1. Appeals Board

- a. The Zoning Board of Appeals as established by the Town of Deerpark shall hear and decide appeals and requests for variances from the requirements of the Local Law.
- b. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of the Local Law.
- c. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- d. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of the Local Law; and
 - i. The danger that materials may be swept onto other lands to the injury of others;
 - ii. The danger to life and property due to flooding or erosion damage;
 - iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - iv. The importance of the services provided by the proposed facility to the community;
 - v. The necessity to the facility of a waterfront location, where applicable;
 - vi. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - vii. The compatibility of the proposed use with existing and anticipated development;
 - viii. The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - x. The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - xi. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - xii. The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

- e. Upon consideration of the factors of Section 4.2.6.1(4) and the purposes of the Local Law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of the Local Law.
- f. The Local Administrator shall maintain records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

2. Conditions for Variances

- a. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 4.2.6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- b. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - i. The proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and
 - ii. The variance is the minimum necessary to preserve the historic character and design of the structure.
- c. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - i. The criteria of a, d, e, and f of this Section are met; and
 - ii. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- d. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- e. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- f. Variances shall only be issued upon receiving written justification of:
 - i. A showing of good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

- g. Any applicant to whom a variance is granted for a building with the lower floor below the base flood elevation shall be given written notice over the signature of a community official that:
 - i. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - ii. Such construction below the base flood level increases risk to life and property.

Such notification shall be maintained with the record of all variance actions as required in Section 230-17(M)(8) of the Local Law.

§ 230-18 Home Occupation Regulations

- A. Home occupations, including businesses which rely upon attraction of the general public (.e.g. retail sales) are permitted as Principal Permitted Uses in certain districts, provided they do not detract from the residential character, appearance (handicapped access notwithstanding), or make-up of the neighborhood in which the business is located. Because of the need these types of businesses may have for advertising and display, and the unpredictability of traffic generation, owners of such businesses must be very cautious about how they operate their business to ensure they do not adversely impact the surrounding neighborhood. The following factors shall be used to determine if a home occupation will comply with or is in violation of this Law. The determination can be made on any one, or a combination, of these factors and shall be made by the Building Inspector. Should the Building Inspector determine any one or a combination of these factors may effect the neighborhood, the request shall go to the Planning Board for Permitted Use with Planning Board Approval.
 - 1. Extent of the business – whether or not the residential use is still the primary use of the property. Factors that shall be used to determine the primary use of the property shall include, but are not limited to, the area of the property used for the business and the amount of time the business is operated on a daily basis. Employees on-site shall be limited to two (2) other than immediate family members.
 - 2. Appearance from an adjacent street – whether or not the use of the property as a business is distinguishable from an adjacent street. Except for a non-illuminated, permanent identification sign no larger than six (6) square feet in size attached to the principal structure and occasional deliveries, there shall be nothing that occurs on the property that can be observed from adjacent streets that make it readily apparent that a business is being operated on the premises. In cases where the principal structure is obscured from the street, or the structure is setback more than fifty (50) feet from the property line, a non-illuminated ground sign not to exceed twelve (12) square feet may be used. Factors for evaluating this standard shall be that the residential dwelling not be altered to changes its residential appearance, and no activity related to the conduct of the home occupation shall be permitted to occur in such a manner as to be obtrusive to the neighborhood, attract attention to the business or adversely impact the residential character of the neighborhood.
 - 3. Impact on the neighborhood – whether or not the business activity is causing a nuisance to surrounding property owners, is adversely impacting the peace, health, or safety of neighborhood residents, and/or is causing a deviation from the residential character of the neighborhood. Factors for evaluating this standard shall be:
 - a. Traffic – whether or not the business is generating traffic that is excessive and/or detrimental to the neighborhood. A home occupation will be allowed to generate no greater than twenty-five (25) vehicle trips per day, based on estimates provided by

the Institute of Transportation Engineers. However, based on the characteristics of a specific neighborhood, these amounts may be lowered or raised, at the discretion of the Planning Board. The factors which shall be used for such a determination include, but are not limited to, pertinent characteristics of the neighborhood such as width of properties, width of the streets, hills, curves, and the number of children present.

- b. Parking – whether or not parking problems could result from the business use. Factors which shall be used to evaluate this criteria include, but are not limited to the following: (i) parking required for the business shall be provided on-site; (ii) parking on the property shall be on a surface equal in quality to the paving surface of any existing driveway unless there is no surface other than the ground, in which case a gravel surface shall be provided at a minimum; and (iii) no home occupation shall be permitted which requires parking of tractor-trailer combinations along the street on a continuing basis.
 - 3. Nuisance – whether or not the business activity is causing a nuisance to surrounding property owners or is deviating from the residential character or appearance of the neighborhood.
- B. No home occupation, having once been permitted or established, shall be added to, expanded, enlarged or otherwise increased or changed substantially in character without complying with its law and such permission or establishment shall not be a basis for a later application to establish a principal commercial use. Moreover, the conversion of a residence with a home occupation to a commercial use by the abandonment of the residence or sale, rent or transfer of the business to a party which does not reside on-site is strictly prohibited unless the business is then moved off-site.

§ 230-19 General Commercial and Industrial Standards

Wherever commercial, manufacturing or other non-residential uses, with the exception of agricultural activities and home occupations, are proposed the following performance standards will apply. The Building Inspector shall ensure these standards are met prior to issuing Certificates of Occupancy for such uses and may require the applicant(s) to provide documentation of compliance.

- A. Commercial/Residential Buffers: Where a commercial or manufacturing use is contiguous to an existing residential use in any RS District (including those situated on the opposite side of a highway) or any approved residential lot in an RR or NR District, the Planning Board may require that the minimum front, side, and rear yards be increased up to fifty percent (50%). The Board may also require, for purposes of separating incompatible activities or shielding the residence from negative impacts, that a buffer consisting of a solid fence of wood and/or twenty (20) feet wide dense evergreen planting not less than six (6) feet high be maintained, unless the properties are in the same ownership of the full width of the yard is already wooded (see also § 230-55).
- B. Inflammables: All activities involving the manufacturing, production, storage, transfer or disposal of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion. Firefighting and fire suppression equipment and devices shall be provided pursuant to National Fire Protection Association guidelines. Burning of waste materials in open fires is prohibited. Details of the potential hazards and planned safety and accident response actions shall be provided by the applicant and the Planning Board may require greater front, side, and rear yards and/or fencing.
- C. Electric Disturbances: No activities shall be permitted which emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.

Town of Deerpark Zoning Law

- D. Noise: The maximum sound pressure level radiated by any non-transportation use or facility at the property line shall not exceed the values given in Table 1 below after applying adjustments as provided in Table 2 below. The sound pressure shall be measured with a sound level meter and associated with Octave Band Analyzer conforming to standards prescribed by the American National Standards Institute.

TABLE 1

OCTAVE BAND RANGE CYCLES PER SECOND	MAXIMUM SOUND PRESSURE LEVEL DECIBELS (0.002 DYNE/2CM)
20-300	60
300-2,400	40
2,400+	30

If the noise is not smooth and continuous and is not radiated between the hours of 10:00 PM and 7:00 AM, the adjustments in Table 2 shall be applied to the decibels levels given in Table 1. Where more than one adjustment is applicable, the largest adjustment only shall apply.

TABLE 2

TYPE OF LOCATION OR NOISE CHARACTER	ADJUSTMENT IN DECIBELS PERMITTED
1. Daytime operation only	+5
2. Noise source operates <20% of any given hour	+5
3. Property is located in HM-U District at least 500 feet from any Residential District boundary	+10
4. Noise of impulsive character (hammering, etc.)	-5
5. Noise of periodic character (hum, screech, etc.)	-5

Motor vehicle racetracks shall employ noise control suppression mechanisms as provided in the Town of Deerpark Local Regulating Motor Vehicle Racetracks (Local Law No. 1 of 1991, as amended).

- E. Vibration: No vibration shall be permitted on a regular or continuing basis which is detectable without instruments at the property line.
- F. Lighting: All lighting shall be designed so as to avoid unnecessary or unsafe spillover of light and glare onto operators of motor vehicles, pedestrians, and land uses in proximity to the light source. Light sources shall comply with the following standards:

TYPE OF LIGHT SOURCE	MAXIMUM ILLUMINATION PERMITTED AT PROPERTY LINE	MAXIMUM PERMITTED HEIGHT OF LIGHT
Globe Light	0.20 Foot-candles	15 feet
>90% Cutoff	0.75 Foot-candles	25 feet
<90% Cutoff	2.00 Foot-candles	30 feet

No direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding or other sources, so as to be visible at the property line on a regular or continuing basis, shall be permitted.

Town of Deerpark Zoning Law

- G. Smoke: No emission shall be permitted on a regular or continuing basis from any chimney or otherwise, of visible gray smoke of a shade equal to or darker than No. 2 on the Power's Micro-Ringelmann Chart, published by McGraw-Hill Publishing Company, Inc., and copyright 1954.
- H. Air Pollution: No emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution shall be permitted on a regular or continuing basis which can cause any damage to health, to animals, vegetation, or other forms of property, or which can cause any excessive soiling.
- I. Water Pollution: All activities involving the possible contamination of surface or ground water shall be provided with adequate safety devices to prevent such contamination. Details of the potential hazards (including the groundwater characteristics of the area in which the use is proposed) and planned safety devices and contamination response actions shall be provided by the developer.
- J. Vehicle and Equipment Sales: Whenever a vehicle and equipment sales, mechanical and body repair use is proposed as a Special Use, or as an expansion of an existing non-conforming use, the following additional performance standards shall apply:
 - 1. All mechanical and body repair work shall be performed within buildings.
 - 2. All automobile or vehicle parts, new or used, shall be stored within buildings.
 - 3. Vehicles which are temporarily on the property awaiting to be repaired, shall be stored in an area which meets the minimum yard and buffer requirements applicable for the district and the use.
- K. Multiple Commercial Occupancies: Where two or more commercial occupancies are proposed on one parcel within the HMU Zoning District, the Planning Board shall consider the most restrictive use proposed as the requirements to be met for site approval process. (Local Law 5 of 2005, filed with the Town Clerk on June 20, 2005).

§ 230-20 Minimum Lot Size Standards

The minimum lot sizes by Zoning Districts are as follows:

RR Zone:	(A) Public Water and Sewer:	10,000 SF
	(B) Public Sewer Only:	15,000 SF
	(C) Shared Sewer Only:	25,000 SF
	(D) No Public Sewer and Water:	40,000 SF
RS Zone:	2.0 Acres	
NR Zone:	0.5 Acres With Public Sewer	
	1.0 Acres Without Public Sewer	
HMU Zone:	(A) Public Water and Sewer:	10,000 SF
	(B) Public Sewer Only:	15,000 SF
	(C) Shared Sewer Only:	25,000 SF
	(D) No Public Sewer and Water:	40,000 SF
IB Zone:	(A) Public Water and Sewer:	10,000 SF
	(B) Public Sewer Only:	15,000 SF
	(C) Shared Sewer Only:	25,000 SF
	(D) No Public Sewer and Water:	40,000 SF
II Zone:	(A) Public Water and Sewer:	10,000 SF
	(B) Public Sewer Only:	15,000 SF
	(C) Shared Sewer Only:	25,000 SF
	(D) No Public Sewer and Water:	40,000 SF
RRC Zone:	2.0 Acres	

Town of Deerpark Zoning Law

The Planning Board can take soil conditions in consideration for the development of new lots based on percolation and deep testing analysis. The above are minimum standards; the Planning Board can require larger minimum standards based on percolation and deep tests.

Non-conforming lots are to be assessed on a case-by-case basis in consideration of soils, percolation and deep tests and separation distances from water and sewer facilities.

Lot lines of adjacent parcels can be combined by petition to the Assessor. The applicants must pay for all new maps, deeds, and filing fees.

§230-21

Flag Lots

- A. Purpose: The Planning Board has the discretion to approve residential flag lots within minor or major subdivisions where strict adherence to the zoning regulations would create unreasonable building lot configurations and the proposed flag lot would be the best use of the land.
- B. Planning Board Review: The Town of Deerpark Planning Board shall have the discretion and authority to permit residential flag lots in minor or major subdivisions within all zoning districts which permit residential uses.
- C. Standards:
 - 1. The Planning Board shall determine whether the flag lot is the best use of the land.
 - 2. Flag lots shall be subject to subdivision review by the Planning Board and shall conform to all standards set by the Land Subdivision Regulations of the Town of Deerpark (see Ch. 200, Subdivision of Land), as adopted by the Town Board of the Town of Deerpark 1-24-2005 by L.L. No. 3-2005, EN(40) Amendments noted where applicable.
 - 3. Landlocked lots shall not be applicable for flag lots.
 - 4. Exclusive of the flagpole, the flag lot shall meet all bulk requirements, except front yard requirements, for the zoning district in which it is located. There shall be no front yard requirements for flag lots.
 - 5. A minimum flagpole width of 50 feet shall be provided; however, the Planning Board may require that the minimum flagpole width be increased on a parcel that is 10 acres in size or larger where it finds that the lot has the potential to be further subdivided. The flagpole shall be a minimum of 200 feet in length and 1,000 feet maximum in length.
 - 6. The grades shall not exceed 12% along drives in flag lots.
 - 7. A minimum buffer area of 25 feet in width shall be designated along all property lines of the flag lot. There shall be no construction within this designated buffer area except driveways.
 - 8. The minimum lot width of a flag lot shall be measured between the two (2) side lot lines at a point beginning at a minimum of 25 feet beyond the required two-hundred-foot (200) flagpole length.
 - 9. The minimum building setback line shall be no closer to the flagpole than 25 feet.
 - 10. Flag lots require special drainage and surfacing for driveways.
 - 11. Flag lots require additional monumentation along the flagpole.
 - 12. Flag lots require driveway profiles.

ARTICLE 5

SUPPLEMENTARY REGULATIONS APPLICABLE TO PARTICULAR USES

§ 230-22 Recreational Vehicles, Campgrounds, and RV Parks

- A. License Requirement: No person, partnership, association, limited liability or other company or corporation, being the owner, user, operator, or occupant of any land within the Town of Deerpark, shall use or allow the use of such land for a campground or RV park or any other form of camping regulated herein unless a license has been obtained as herein provided.
1. The Town Clerk, after review by the Zoning Officer and/or Building Inspector, shall issue a license after approval of the application by the Planning Board pursuant to Special Use procedures.
 2. No license shall be issued until the Building Inspector has received a written application from the applicant, the required fee, and evidence of approval from the New York State Department of Health.
 3. The license may be transferred to a new owner of a campground or RV park provided that an application for transfer of the existing license is made and the prospective new owner/operator shall document that all of the requirements of this law are met.
 4. Any person holding a license for a campground or RV park who desires to add additional lots or spaces to such park shall file an application for a supplemental license.
 5. All licenses issued hereunder shall be valid until June 30 of the following fifth (5th) year prior to which time applicants shall request or apply for renewal of such licenses and the Building Inspector shall inspect the premises to ensure continued compliance with this law. No facility shall open for business for the new 5-year period unless a renewal has been granted. Renewal applications shall be filed by January 31 of the year which renewal is required.
 6. The applicant for any new license, renewal or transfer shall pay the Town application, or other, fees as may be established and modified from time to time by resolution of the Town Board.
 7. Each application for a campground or RV park license shall be in writing, signed by the applicant and submitted in quadruplicate along with all plans required to the Building Inspector. The Building Inspector shall promptly transmit copies of the application and plans to the Planning Board, which shall review and act upon the application pursuant to Special Use requirements. The Building Inspector, within thirty (30) days of the filing of the Planning Board action, shall issue the license provided all other requirements are met.
- B. Design Standards and General Requirements:
1. A campground or RV park shall have a gross area of at least ten (10) contiguous acres of land in single ownership or under unified control.
 2. All campgrounds and RV parks shall maintain front and rear yards of one-hundred (100) feet minimum, side yards of fifty (50) feet minimum, stream setbacks of one-hundred (100) feet and provide and maintain a screening strip of planted natural materials along all property boundary lines, fully complying with the landscaping standards herein. Such screening shall be a depth of not less than twenty (20) feet, and designed to effectively screen the area within

Town of Deerpark Zoning Law

a period of three (3) to five (5) years. A planting plan specifying types, size, and location of existing and proposed plant materials shall be required.

3. Lot and Siting Requirements:
 - a. RV Park or campground campsites shall be at least fifty (50) feet wide and thirty-five hundred (3,500) square feet in area. Gross density, however, shall not exceed a total of six (6) campsites per acre for the development.
 - b. Campground or RV park campsites shall be separate from service building structures by a minimum distance of fifty (50) feet. The minimum spacing between campsite pads shall be eighty (80) feet (extremity to extremity).
4. At least one (1) off-street parking space shall be provided for each site, in addition to the site for placement of the recreational vehicle or tent. Such space shall be a minimum of twelve (12) by thirty (30) feet in dimensions.
5. Recreational land development streets shall be improved to a twelve (12) feet width for one-way traffic and twenty (20) feet width for two-way traffic to accommodate regular vehicular traffic. Grades shall not exceed twelve percent (12%).
6. No individual on-site sewerage or water supply shall be permitted and all systems for the common use of campground occupants shall fully comply, as evidenced by approved plans, with standards imposed by the New York State Departments of Conservation and Health and the Town of Deerpark Engineer. At least one (1) recreational vehicle sanitary dumping station shall be provide for every one-hundred (100) campsites or less.
7. No permanent external appurtenance, such as expandable rooms, carports, or patios, may be attached, adjoined, or placed on the same property with any recreational vehicle parked in a campground or RV park, and the removal of wheels or placement of the unit on a foundation in such park is prohibited.
8. A minimum of two-hundred (200) feet of frontage along a public highway shall be required. Entrances and exits to campgrounds or RV parks shall be designed for safe and convenient movement of traffic into and out of the park and to minimize friction with traffic on adjacent streets. No entrance or exit shall require a turn at an acute angle and the radii of curbs and pavements at intersections shall facilitate easy turning for vehicles with trailers attached. Every intersection of an entrance or exit with a public highway shall have at least five-hundred (500) feet of sight distance in both directions along the public highway and be located a minimum of one-hundred-fifty (150) feet from any other intersection. Two (2) accesses shall ordinarily be required.
9. A minimum of fifty percent (50%) of the gross site area of the campground or RV park shall be set aside and developed as open space or common use recreational facilities.
10. Parking, loading, or maneuvering incidental to parking or loading shall not be permitted on any public right-of-way. Each campground or RV park operator shall provide off-street parking and loading areas and shall be responsible for violations of these requirements.
11. Campground or RV park campsites shall be used only for camping purposes. No improvement or living unit designed for permanent residential occupancy shall be erected or placed on any campground or RV park campsite excepting a single-family home intended for the use of an owner or resident manager. Specifically:
 - a. All recreational vehicles in the development shall be maintained in a transportable condition at all times and meet all requirements which may be

Town of Deerpark Zoning Law

imposed by the State of New York. Any action toward removal of wheels or to attach the recreational vehicle to the ground for stabilization purposes is hereby prohibited.

- i. Rental dwelling units not mobile (i.e. cabins) must be approved by the Planning Board.
 - ii. Any “cabin” must meet NYS Building Codes and be maintained to such standards.
 - iii. Cabin units shall be connected to community water and sewer.
 - iv. All rental dwelling units, including cabins, must have a valid Building Permit.
 - b. No campground or RV park site shall be occupied for more than four (4) consecutive months, and no campground or RV park site shall be the primary residence of the individual lot owner or any other occupant; each site shall be used and occupied (excepting for occasional guests) for camping and recreational purposes and only by a single household. All campgrounds shall close annually between December 15 and March 15. All buildings and recreational vehicles, other than the home of a resident manager or owner, shall be locked and made unavailable for occupancy during this period.
 - c. The Town Building Inspector may require any owner to remove a recreational vehicle from the campground for a period of seven (7) days, unless such owner can establish a prior removal or storage without occupancy within the immediately preceding six (6) months. These requirements shall be included in restrictive covenants for non-transient campgrounds or RV parks.
 - d. The management of every campground or RV park shall be responsible for maintaining accurate records concerning the occupancy of all campground or RV park campsites. The term “management” shall include associations of property owners when such are responsible for maintenance and operation of common facilities. The Building Inspector shall have access to, and the right to inspect, records for evidence of permanent residency. The Town Board and/or Building Inspector shall, in addition, have the authority, when any provision of this law is violated, to prohibit the occupancy of any and all campground and RV park campsites until the owners and/or management comply.
12. No owner or occupant of any campground or RV park campsite shall permit or allow the dumping or placement of any sanitary or other waste anywhere upon any campground or RV park lot or elsewhere within the development, except in places designated therefor. No outside toilets shall be erected or maintained on any campground or RV park campsite. Sanitary facilities, including toilets, urinals, and showers, shall be provided in separate buildings located not less than one-hundred (100) feet or more than three-hundred (300) feet from each campground or RV park campsite and all State health regulations shall be fully met. Portable temporary toilets shall not be allowed on premises without Planning Board approval for specific dates.
13. All property lines within the development shall be kept free and open; and no ledges, walls or fences, except as may be required for screening or as may exist naturally, shall be permitted.
14. No noxious or offensive activities or nuisances shall be permitted within any campground or RV park. Such nuisances shall include, but not be limited to: (1) excessive noise; (2) any burning which results in smoke or noxious fumes emanating beyond the property

line; and (3) any other nuisance activity which would cause impacts beyond the property line. Responsibility for meeting such requirements shall extend to occupants of campground or RV park campsites as well as owners and operators. Public address systems shall not be permitted. Music events, radios, and other sound amplifying devices shall be kept to a minimum and must meet Town noise ordinance.

15. No animals shall be kept or maintained on any campground or RV park campsite except for the usual household pets which shall be kept confined and leashed at all times. Feces must be cleaned up after.
16. No person shall burn trash, yard waste, debris, or refuse on any campground or RV park campsite or property. Recreational campfires shall meet campfire regulations below. All such refuse shall be placed in closed receptacles which shall be provided by the owners of the campground or RV park campsites and must be removed at least weekly. No owner or occupant shall permit the accumulation of any refuse or junk vehicles on a campground or RV park campsite or property. Owners must provide a location approved by the Building Inspector for garbage dumpsters and the receptacles must be animal-proof and maintained.

Campground Regulations:

- a. "Don't Move Firewood" – A new regulation is now in effect that prohibits the import of firewood into New York unless it has been treated to kill pests. The regulation also limits the transportation of untreated firewood to less than fifty (50) miles from its source.

By transporting firewood, you could be spreading diseases and invasive insects that can quickly kill large number of trees. Help STOP THE SPREAD and obey the firewood regulation:

- i. It is best to leave all firewood at home – please do not bring it to campgrounds or parks.
 - ii. Get your firewood at the campground or from a local vendor – ask for a receipt or label that has the firewood's local source.
 - iii. If you choose to transport firewood within New York State:
 - (A). It must have a receipt or label that has the firewood's source and it must remain within fifty (50) miles of that source.
 - (B). For firewood not purchased (i.e. cut from your own property) you must have a Self-Issued Certificate of Source (pdf, 100 kb), and it must be sourced within fifty (50) miles of your destination.
 - (C). Only firewood labeled as meeting New York's heat treatment standards to kill pests (kiln-dried) may be transported into the state and further than fifty (50) miles from the firewood's source.
- b. Campfires:
 - i. Use existing campfire rings.
 - ii. Build campfires away from overhanging branches, steep slopes, rotten stumps, logs, dry grass, and leaves. Pile any extra wood away from the fire.

- iii. Campfires must be less than two (2) feet in height and three (3) feet in diameter. Only charcoal or untreated wood can be used as fuel. Scrape away litter, duff, and any burnable material within a ten (10) foot diameter circle. This will keep the campfire from spreading.
 - iv. Be sure your match is out. Hold it until it is cold.
 - v. Campfires should be drowned with water prior to leaving the campsite and/or retiring for the night.
 - vi. Never leave a campfire unattended. Drown the fire with water. Make sure all embers, coals, and sticks are wet. Move rocks as there may be burning embers underneath.
 - vii. Stir the remains, add more water, and stir again. If you do not have water use dirt. Do not bury your coals as they can smolder and break out.
17. Picnic tables, grills and similar items of personal property may be placed on a campground or RV park campsite provided they shall be maintained in good condition.
18. Each owner shall keep drainage ditches and swales located on his campground or RV park campsite unobstructed and in good repair and shall provide for the installation of such culverts upon his campground or RV park campsite as may be reasonably required for proper drainage.
19. No water wells shall be permitted on any individual campground or RV park campsite. The campground or RV park shall be serviced by a central or community water system capable of delivering a minimum of one-hundred (100) gallons per day per site at a minimum pressure of twenty (20) pounds per square inch at peak demand. Potable water drinking supplies shall be provided within two-hundred-fifty (250) feet of each campground or RV park campsite and be operational during any period of occupancy. One water spigot shall be provided for each ten (10) campsites without water facilities. Other water sources supplied to toilets and urinals shall not be physically connected with the drinking supply or be available for public use. Service buildings housing sanitation facilities shall be heated when the campground is occupied between November 1 and March 31 if winter camping is allowed by Special Use or ZBA, and in accordance with conditions and codes.
20. A public phone or similar arrangement for emergency communication shall be available 24 hours per day at each rest room facility within each campground or RV park.
21. Every campsite and structure shall be accessible by fire and emergency equipment and shall be maintained in such condition, free of obstacles to access.
22. The operational standards contained in this section shall be incorporated in restrictive covenants attached to the deeds for campsites in non-transient campgrounds or RV parks and shall be made part of a management plan for any transient campgrounds or RV parks, which covenants and/or plan shall be approved by the Planning Board during site plan review. A plan or set of covenants which does not adequately provide for conformance with this section shall not be approved. The plan and/or covenants shall also provide the Town with the right to periodically inspect the development for continued compliance with the plan and/or covenants.
23. Each campsite (except designated primitive tent camping area) shall be provided with 30 amp, 120 volt electrical service. Sufficient exterior illumination shall also be provided for convenience and safety. All lighting shall be shielded from the direct view of surrounding properties and streets.

24. Campground stores are permitted to be located within the campground and may be part of the office.
25. All ancillary facilities such as stores, offices, pools, service buildings and the like shall be subject to site plan review and special use approval.
26. All campgrounds shall provide a children's playfield of at least one (1) acre in size (not including the pool if provided) with at least one (1) acre of playfield for each twenty-five (25) campsites. All pools shall be setback a minimum of two-hundred (200) feet from any exterior property line and all other recreational facilities shall be setback at least one-hundred (100) feet. Setbacks for lighted facilities shall be twice these figures. All facilities are subject to the NYS Building Code and building permits shall be required for any new construction, repairs, or alternations.
27. Storage on site must be approved by the Planning Board.

C. Enforcement:

1. The Building Inspector shall enforce all of the provisions of this Law and shall have the right, at all reasonable times, to enter and inspect any campground or RV park or other premises used as a campground or RV park or for the parking or place of recreational vehicles.
2. If the Building Inspector finds that a campground or RV park for which a license has been issued is not being maintained in a clean and sanitary condition or is not being operated in accordance with the provisions of this Law, he may service personally or by certified mail upon the holder of the license a written order which will require the hold of the license to correct the conditions specified in such order within ten (10) days after the service of such order. Such order may also be posted on the property if the licensee is otherwise unable to be reached.
3. If the holder of such license shall refuse or fail to correct the condition or conditions specified in such order, the Building Inspector may revoke such license and the holder of the license shall thereupon immediately terminate the operation of such campground or RV park and held to be in violation of this law.
4. If the owner or operator of such facility shall thereafter correct such condition(s) and bring the facility into compliance with this law, such owner may then apply for a new license.
5. None of the provisions of this law shall be applicable to the following:
 - a. The business of recreational vehicles sales.
 - b. The storage of a recreational vehicle on a property used as the principal residence by the owner of such recreational vehicle; provided, however, that such recreational vehicle shall be unoccupied and not be parked or located between the street line and the front building line of such premises.
 - c. Camping by the owner on his or her own property provided a permit of no more than two (2) weeks in consecutive days has been issued by the Building Inspector pursuant to this law, appropriate sanitary facilities and/or sewage disposal systems are in place to serve the unit and the lot on which is to be placed is a minimum of fifty (50) feet in width. The Building Inspector shall develop and enforce a permit system which shall be applicable to all such camping. No permit, however, shall be required for tent camping by owners in the rear or side yard of any residence for more than fourteen (14) continuous days.

6. This law shall apply to any extension of existing campgrounds or RV parks, including increases in the number of lots or available spaces, even if no addition to total land area is involved.
7. The operational standards of this section shall also apply to existing parks. However, existing parks shall be assumed to have conformed to the formal license and renewal procedure if they have either a use permit from the Town pursuant to this Zoning Law or a permit from the New York State Department of Health. Any existing park which does not have a permit from the Department of Health or approval from the Town shall not qualify for this treatment and shall be required to make a new submission.

§ 230-23 Manufactured Homes and Parks

Manufactured homes and manufactured home parks shall be subject to the requirements of the Town of Deerpark Manufactured Home Law and the following standards and review criteria:

- A. Permitted Locations: Manufactured homes shall be permitted only within the mobile home parks (where permitted) excepting that doublewide units shall be permitted in the same locations as other single-family residences, subject to the standards of subsection 2 below.
- B. Standards Applicable to Individual Manufactured Homes:
 1. A doublewide manufactured home may be placed in the Town only after obtaining a manufactured home/building permit and shall require a Certificate of Occupancy before initial occupancy.
 2. Doublewide manufactured homes located outside of manufactured home parks shall comply with all area and bulk requirements that apply to one-family houses in the same zoning district.
 3. All doublewide manufactured homes shall be connected to an adequate supply of potable water; shall be connected to a community wastewater system or septic system constructed to all State and local requirements; and shall be connected to all applicable utilities including but not limited to electric power, telephone, propane gas, and fuel oil. All the foregoing connections or services shall be provided to the manufactured home within ninety (90) days of permit issuance for placement of the home.
 4. All doublewide manufactured homes hereafter erected in the Town shall have been manufactured no less than ten (10) years earlier than the date of application; be Underwriter Laboratory certified; and bear the seal of the U. S. Department of Housing and Urban Development. The Zoning Board of Appeals may waive this requirement for just cause and attach conditions to protect public health and safety.
 5. All doublewide manufactured homes shall have peaked roofs, with a minimum pitch of three (3) feet vertical to twelve (12) feet horizontal.
 6. Doublewide manufactured homes, outside of manufactured home parks, shall be installed on a load-bearing foundation complete with footings, such as a crawl space or full basement meeting New York State building code standards.
 7. Structure frames of doublewide manufactured homes must be securely attached to the foundation as provide by New York State building codes standards.
 8. Permanent steps and hand rails shall be constructed at all access points of the doublewide manufactured home to ensure a safe means of ingress/egress into the dwelling unit.

9. Exceptions to Permanent Placement Requirements:

- a. Construction Field Office: A single manufactured home unit may be temporarily located in any zoning district for use as a construction field office, real estate sales office, or manufactured home sales office provided a building permit has been issued under the New York State building code. Such offices may not be installed prior to thirty (30) days before the commencement of the relevant project and must be removed within thirty (30) days after the completion of the relevant project, a maximum of one (1) year, with a one (1) year extension subject to approval of the Planning Board.
 - b. Temporary Placement of Manufactured Homes: It shall be unlawful to store any mobile home on any property within the Town of Deerpark for a period in excess of thirty (30) days.
10. Prohibited Uses for Manufactured Homes: Manufactured homes shall be used for single family dwelling purposes only. All other uses, including but not limited to use as a warehouse, storage shed, tool shed, outbuilding, or garage are prohibited.
11. Non-Conforming Manufactured Homes: Any manufactured home lawfully in existence at the time of the adoption of this local law which is not in full compliance with this Law may remain in its existing location but may not be otherwise relocated within the Town except with respect to relocation on the same lot. No manufactured home previously occupied as a dwelling may be converted to a use prohibited by this Law, however.

C. Manufactured Home Park Special Use and Site Plan Review Criteria:

The Planning Board shall, in reviewing and acting upon Special Use applications for manufactured home parks, apply the requirements of the Town of Deerpark Manufactured Home Law and the following standards and review criteria:

1. The location of the park shall be one demonstrably suitable for such use, with proper drainage and provisions for stormwater control such that the amount of water leaving the site after development shall not be greater than prior to development.
2. There shall be documentation of the availability and adequate capacity of all utility providers to service the park. Off-site or centralized water facilities shall be provided.
3. The park shall be designed to provide maximum open space consistent with the minimum manufactured home lot size requirements of the Manufactured Home Law and offer buffering of individual manufactured homes from each other and from other adjoining lot owners. It shall be landscaped so as to develop and maintain a high quality aesthetic environment and neighborhood character for prospective new and existing residents.
4. Adequate provisions shall be made for outside storage space and these shall not in any way interfere with emergency access.
5. Adequate provisions shall be made to control potential nuisance situations such as accumulation of unused materials or vehicles.
6. Recreational facilities sufficient to accommodate the number of dwellings proposed shall be provided.
7. There shall be adequate groundwater supplies to support the proposed water system without causing a detrimental impact on adjoining water supplies and evidence of this shall be provided and professional reviewed.

8. The management and operations plan for the park shall provide for maintenance of all common facilities and ensure the purposes and requirements of this law are met. It shall also provide for limitation of occupancy to manufactured homes meeting U. S. Department of Housing Urban Development regulations under the Manufactured Housing Act.
9. The manufactured home park shall not result in an over-concentration of such uses in a particular area of the Town such that two-hundred (200) or more mobile homes are placed on contiguous properties, for example.

§ 230-24 Planned Residential Developments

A. Purposes

1. It is the purpose of this section to permit but not require, upon receipt and approval by the Town Board of an application made by the landowner(s), the establishment of a zoning classification entitled “Planned Residential Development (PRD) District”. Such district may be permitted for the following purposes:
 - a. A maximum choice in the types of housing, lot sizes and community facilities available to present and future Town residents or visitors at all economic levels.
 - b. More usable open space and recreation areas.
 - c. More convenience in location of certain accessory commercial and service areas.
 - d. The preservation of trees, outstanding natural topography and geological features and the prevention of soil erosion.
 - e. A creative use of land and related physical development which allows an orderly transition from rural to urban uses.
 - f. An efficient use of land resulting in small networks of utilities and streets and thereby lower housing costs.
 - g. A development pattern in harmony with objectives of the Town of Deerpark Comprehensive Plan.
 - h. A more desirable environment than would be possible through the strict application of other articles of this law or Chapter 200 of the Town Code (Subdivision of Land).
2. Generally, these floating districts (permitted within HMU and RR zones) are intended to provide landowners who wish to develop functionally integrated residential or resort communities or complexes with the flexibility to do so, provided that sufficient open space will be preserved and the development is designed with safeguards to protect the public health, safety and welfare.

B. Procedures

The Town Board shall establish PRD Districts in the following manner:

Town of Deerpark Zoning Law

1. The owner(s) of the land in a proposed PRD District shall initially apply to the Town of Deerpark Planning Board for the establishment of a PRD – Planned Residential Development District. The application shall be in writing and include a sketch plan.
 - a. Said sketch plan shall be drawn to scale, though it need not be to the precision of a finished engineering drawing, and it shall indicate the following information:
 - i. The location and types of the various uses and their areas in acres.
 - ii. Delineation of the various residential areas, indicating for each such area its general location, acreage and composition in terms of total number of dwelling units, approximate percentage allocation of dwelling units by type and the calculation of the residential density in dwelling units per gross acre of site area.
 - iii. The general outlines of the interior roadway system and all existing public and private rights-of-way and easements.
 - iv. The location and area of the common open space.
 - v. The overall drainage system.
 - vi. A location map showing uses and ownership of abutting lands.
 - vii. Provisions of sewers, water and other required utilities.
 - b. In addition, the following documentation shall accompany the sketch plan:
 - i. Evidence that the proposal is compatible with the goals of the Town of Deerpark Comprehensive Plan.
 - ii. How common open space is to be owned and maintained.
 - iii. If the development is to be staged, a general indication of how the staging is to proceed. The sketch plan shall show the total project whether or not the proposed development is to be staged.
2. The Planning Board shall review the sketch plan and related documents and render a report to the applicant on the acceptability of the proposal along with recommendations for changes or improvements, if any. An unfavorable report shall state clearly the reasons therefore and, if appropriate, advise the applicant what revisions are necessary to receive acceptance.
3. Upon receipt of the Planning Board's report, which shall be made within sixty-two (62) days of the meeting at which the sketch plan is initially presented, the applicant shall submit a preliminary development plan for the project to the Planning Board, including but not limited to all information required under Chapter 200, Subdivision of Land, and for purposes of compliance with the State Environmental Quality Review Act (SEQRA). The applicant shall also submit, in the form of a letter or brief, information indicating how the development will specifically comply with or meet the special use and site plan review criteria contained in this chapter and the following additional information:
 - a. An area map showing the property proposed for PRD and adjacent property, if any, owned by the applicant and all other properties, roads, and easements within five-hundred (500') feet of the applicant's property.

- b. The preliminary development plan shall show the location, proposed uses and height of all buildings; locations of all parking and truck loading areas which egress thereto; location and proposed development of all open spaces; location of all existing or proposed site improvements; description and location of water supply, sewerage system and storm drainage system; location of all signs and designs of lighting facilities; the extent of building area proposed for non-residential uses, if any; the location of existing watercourses and wetlands; and the location of municipal and fire, light and school district boundaries.
4. Action on Preliminary Plan
- a. Within sixty-two (62) days of the receipt of a completed preliminary development plan, the Planning Board shall review such submission, act upon the SEQRA submission, conduct a public hearing on the development plan and recommend action to the Town Board regarding establishment of a PRD District to accommodate the proposed project. It shall concurrently approve, disapprove, or approve with modifications the preliminary development plan, conditioning any approval on action of the Town Board with respect to the PRD District.
 - b. The Planning Board shall approve the plan if it finds that:
 - i. The proposed uses will not be detrimental to present and potential uses in the area surrounding the proposed district.
 - ii. Existing and future highways are suitable and adequate to carry anticipated traffic associated with the proposed district.
 - iii. Existing and future utilities are or will be adequate for the proposed development.
 - iv. The development plan complies with the requirements of this chapter and is consistent with the Town of Deerpark Comprehensive Plan.
 - c. Preliminary approval by the Planning Board shall be in the form of a written statement to the applicant and may include recommendations to be incorporated in the final site plan. If the preliminary development plan is disapproved, the statement of the Planning Board shall contain the reasons for disapproval. The Planning Board may recommend further study and resubmission of a revised preliminary development plan.
5. When the Planning Board has approved a development plan for a proposed district, the plans shall be filed in the office of the Town Clerk, and the Town Board shall then proceed to consider amendment of the chapter in accord with the Town Law, conducting a hearing and acting upon the same within ninety (90) days of the meeting at which the Planning Board's recommendation is received. The Town Board shall, where appropriate, provide for County Planning Department review of the proposal and may attach conditions to its approval. When any planned district is not substantially developed in accordance with the approved preliminary development plan for a period of three (3) years from the effective date of its establishment, and provided that it shall then appear that rights vested in persons acting in good faith in reliance on such zoning classification will not be prejudiced thereby, the Town Board, upon resolution and no earlier than sixty-two (62) days following written notice to the applicant and general publication in a newspaper of general circulation, the Town may declare the same, by which action the change in classification to a PRD District shall be voided. The Town hereby exercises its authority under § 10 of the Municipal Home Rule Law to supersede §

Town of Deerpark Zoning Law

264 of the New York State Town Law so as to permit voiding of a zoning change without resorting to further rezoning procedures.

6. Final Approval

- a. After the Planning Board has approved the preliminary development plan, and provided the Town Board has approved the establishment of the PRD District, the applicant shall prepare a final development plan, including all information required under Chapter 200, Subdivision of Land, and submit it to the Planning Board for final approval.
- b. Where more than twelve (12) months have elapsed between the date of preliminary approval and the time of submission of the final development plan, and where the Planning Board finds that conditions affecting the plan have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary development plan for further review and possible revision prior to accepting the proposed final development plan for approval by the Planning Board. The applicant(s) may, or the Planning Board may require the applicant to, submit the final development plan in stages.
- c. The final development plan shall conform substantially to the preliminary development plan approved by the Planning Board and meet all requirements set forth in Chapter 200, Subdivision of Land, pertaining to final plans. It shall incorporate any revisions or other features that may have been recommended by the Planning Board and/or the Town Board at the time of preliminary review.
- d. Within sixty-two (62) days of the receipt of a completed application for final development plan approval, the Planning Board shall review and act on such submissions and so notify the Town Board. If no decision is made within sixty-two (62) days, the final development plan shall be considered approved.
- e. Upon approving an application, the Planning Board shall endorse its approval on a copy of the final development plan and shall forward it to the Building Inspector, who may then issue a building permit to the applicant if the project conforms to all other applicable requirements of the Town.
- f. If the application is disapproved, the Planning Board shall notify the applicant and Town Board of its decision, in writing, and its reasons for disapproval.
- g. Final development plan approval shall constitute final development plan approval under Chapter 200, Subdivision of Land, and the provisions of § 276 of the Town Law, and a copy shall be filed in the Orange County Clerk's office.
- h. No building permits shall be issued for construction within a PRD District until all requirement improvements are installed or a performance bond is posted in accordance with the procedures provided by in Chapter 200, Subdivision of Land, and § 277 of the Town Law.

C. General Requirements

1. Location

A PRD District may be permitted within HMU (Hamlet/Mixed Use) and RR (Rural Residential) Districts.

Town of Deerpark Zoning Law

2. Minimum Site Area

A PRD District should comprise at least eight-hundred (800) contiguous acres of land, except for retirement housing projects, which shall require two-hundred (200) contiguous acres of land, although lesser sized tracts may be approved at the discretion of the Planning Board and the Town Board.

3. Density and Open Space

The density and open space standards applicable to conservation subdivisions shall also apply to all PRD projects.

4. Utilities

All uses situated in a PRD District shall be served by community water and sewerage systems. All water, sewer, and gas lines (where available) and all other lines providing power and communication service shall be installed underground in the manner prescribed by the appropriate state and local agency and/or utility company having jurisdiction.

5. Permitted Uses

All residential uses, except mobile homes, hotels, motels, and resorts shall be permitted in PRD Districts.

6. Other Zoning Requirements

With the exception of lot and yard requirements which may be waived or modified by the Planning Board, the PRD District shall comply with all other provisions of this chapter. No modification or waiving of density standards generally applicable to PRD Districts shall be permitted. Density for non-residential uses shall be determined on the basis of the projected sewage flows, with an equivalent dwelling unit being that amount of flow normally associated with a one-family residential dwelling.

7. Ownership

The land proposed for a PRD District may be owned, leased or controlled either by an individual, corporation or by a group of individuals or corporations. PRD District applications shall be filed by the owner or jointly by all owners of the property included in the application. In the case of multiple ownership, the approved plan shall be binding on all owners.

8. Organization

A PRD District may be organized as a condominium, a cooperative, a leasehold, or held in individual or corporate ownership. If a property owners' association (POA) is to be established, and one shall be required if any property is to be held in common, such POA shall be organized as provided for conservation subdivisions in Chapter 200, Subdivision of Land.

§ 230-25 Planned Residential Districts (PRD) and Planned Residential Retirement Districts (PRRD)

Intent and Purposes

It is the intent and purpose of this section to create by Special Use Permit or rezoning of the Town Board, Planned Residential Communities (PRC's) and Planned Residential Retirement Communities (PRRC's) on one or more sites and in proper locations, within the RR and HMU zones, but outside the RRC overlay zone, so as to promote on encourage the following:

A. Variety of Housing Types

Promote the opportunity to create a wider variety of housing types, ranging from single family detached to single family attached units (townhouses) and multiple dwellings designed to serve the present and the future owner-occupied and rental housing needs in the Town of Deerpark, including elderly households, families of moderate income, small families, and seasonal residences.

B. Creative Use of Large Tracts

Encourage the creative use of large tracts of land with direct access to State or County highways, and which contain at least eight hundred (800) contiguous acres of land so as to promote the establishment of a more desirable living environment than would normally be possible under current regulations. PRRD's for age oriented developments shall be required to have adequate access over public roads to State or County highways and contain at least two hundred (200) contiguous acres of land. (NOTE: PRD's for non-age-oriented residential developments shall contain at least eight hundred (800) acres of land and shall have direct access to State and County roads).

C. Flexibility of Design and Development

Provide for flexibility of design and development in such a way as to promote superior land planning design, greater economy, efficiency and convenience in the arrangement of land uses and their supporting infrastructure, preserve open space, protect wetlands, flood plains and other natural features, and preserve scenic areas and vistas.

D. Service and Utilities

Encourage orderly and well-planned development of a scale and location that will make it feasible to construct a comprehensive package of supporting utilities, services and facilities, active and passive recreation facilities, a storm water control and management system, and energy conservation measures, so as to achieve developments which are environmentally, physically, visually, and economically superior.

E. Traffic Circulation

Encourage orderly development of sites with adequate access over public roads to either State or County highways, either directly or by the development of new or existing roads to current Town standards so as to provide safe, efficient, adequate access and traffic circulation.

F. Recreational and Economic Development

Encourage residential development that will add to the economic base of the community and support tourism such as adult oriented and seasonal developments in PRRD's. such uses will

service to offset a lack of industrial ratables while having a minor impact on traffic and tax costs by not generating school age children.

G. Preservation

Encourage the preservation, to the greatest reasonable extent possible, of slopes over twenty-five (25%) percent, wetlands, flood prone areas, historic structures or sites, unique natural or geographic formations, rare vegetation or habitats of endangered wildlife, lakes, ponds, significant recreational areas or resources, trails, bikeways, pedestrian routes, significant scenic routes and particularly those having views of ridge lines, water bodies, scenic vistas, and mountains.

H. Adequate Review

Provide adequate review and supervision of development by requiring both conceptual and specific plan approvals tied to the findings of adopted environmental impact statements.

I. Eligibility

This authorization shall be applicable to the RR and HMU zones of the Town of Deerpark (not including the RRC overlay zone) and shall be utilized only when the Town Board determines that its utilization will benefit the Town based upon the results of a Generic or Draft Environmental Impact Statement. Once the GEIS or DEIS is prepared and SEQRA process has been completed as specified hereinunder the Town Board shall determine if the Zoning Map will be changed in accordance with the provisions of these regulations. When the Zoning Map is changed to reflect the PRD or PRRD district created that use will be the exclusive use allowable on that re-zoned parcel.

J. Uses Within a PRD or PRRD

1. Primary Uses

Primary uses within a PRD or PRRD shall be as follows:

- a. Residential Uses: Detached, semi-detached, or attached one family dwellings, and multiple dwellings.
- b. Non-residential Uses: Active and passive park and recreational areas, open space and recreational facilities, swimming pools, tennis courts, ball fields, golf courses, playgrounds, walkways, bikeways, riding trails, nature trails, and similar structures and facilities. Certain uses which may be noise inducing or visually offensive such as, but not necessarily limited to, amusement parks or rides, bungee jumping, motor cross or motorized trail bike facilities shall be prohibited.

2. Accessory Uses

Accessory uses in PRD or PRRD shall include the following:

- a. Buildings and/or facilities designed or intended for the administration or maintenance of the PRC or PRRC.
- b. Off-street parking facilities and utilities.
- c. Buildings and/or facilities (attached to or detached from the residential units) designed or intended for storage of residents' personal belongings or equipment for an approved use.
- d. Residential and cultural facilities for the sole use of the residents of the PRC or PRRC and their guests, including but not limited to the following: clubhouse, restaurant and/or

snack bar, swimming pool, tennis courts, shuffleboard courts, picnic grounds, community center and hiking trails, or any other amenities desirable for the implementation and development of the community. All such facilities, however, shall be subordinated to the residential character of the community.

- e. Buildings and/or facilities designated or intended to facilitate the sale or resale of the residential dwelling units.
- f. Construction related storage sheds.
- g. Such other uses as may customarily be accessory to this type of community.
- h. All of the foregoing shall be subject to the discretion of the Planning Board with regard to size, need, and appropriateness to the community.

3. Public and Commercial Uses

The following additional uses are permitted within a PRD or PRRD provided they are designed, planned and developed for the sole purpose of service to the residents and guests of the PRC or PRRC.

- a. Public Uses: Health care facilities, schools, public buildings, membership clubs, child and/or adult day care or nursery schools and other uses supportive of the special needs of a particular PRC or PRRC.
- b. Commercial Uses: Retail, personal service shops, business and professional offices and grocery stores, provided that the total land area devoted to commercial uses does not exceed four (4%) percent of the gross acreage within an age-oriented PRRC or does not exceed two (2%) percent of the gross acreage within a PRC. Automotive related uses may be permitted and limited by the Planning Board at its discretion as part of their approval of the PRC or PRRC.

4. Definitions

- a. Planned Residential Communities (PRC)

A residential development located within a PRD consisting of one or more parcels of land with contiguous total area of at least eight hundred (800) acres forming a land block to be developed exclusively as a planned residential community in conformance with the provisions applicable to the Local Law.

- b. Planned Residential District (PRD)

A zoning district devoted exclusively to the creation, development and regulation of Planned Residential Communities (PRC) and their accessory uses.

- c. Planned Residential Retirement Community (PRRC)

A residential development located within a PRRD consisting of one (1) or more parcels of land with contiguous total area of at least two hundred (200) acres forming a land block to be developed exclusively as a planned retirement community as established and further defined in the Local Law.

- d. Planned Residential Retirement District (PRRD)

A zoning district devoted exclusively to the creation, development, and regulation of Planned Residential Retirement Communities (PRRC) and their accessory uses.

K. Development Standards and Controls

Except where specified herein, all development standards and controls normally applicable to all other residential subdivisions and uses shall also be applicable to PRC's and PRRC's. Where these standards are in conflict with the Zoning Law or other Town regulations the standards contained herein shall govern.

1. Gross Density

The maximum permitted density for an age-oriented PRRC will be 6.25 dwelling units per gross acre. The maximum permitted density for a PRC will be 3.0 dwelling units per gross acre. However, if the gross acreage of a PRC includes land in the following categories, the total amount of land in these categories shall be deducted from the gross acreage in calculating density.

Gross acreage density deductions for PRC's include:

- a. Slopes of twenty-five (25%) percent and greater.
- b. Existing easements unusable for development.
- c. Existing streets.
- d. Water bodies.
- e. DEC regulated wetlands for which no permit has been granted for development, and which has been delineated on an official wetland map of the NYSDEC at a date at least one (1) year prior to the time of submission of an application under this section of the Zoning Law.
- f. Federal wetlands as described by a wetland specialist on an application suitable for submission to the U.S. Army Corps of Engineers for which no permit has been granted for development.

2. Legal Formation

An age-oriented residential development community PRRC shall, through its corporate association, association owners, or any other legal entity, consist of a parcel or parcels of land which shall be restricted in their use, occupancy, or ownership, or any combination thereof, by by-laws, rules, regulations, covenants or restrictions to permanent residents whose use, occupancy, or ownership shall be restricted as applicable to:

- a. Any person of the age of fifty-five (55) years or over; or
- b. A husband or wife, regardless of age, residing with his or her spouse, provided that the spouse of such person is of the age of fifty-five (55) years or over; or
- c. The child or children residing with a permissible occupant or owner, provided that the child or children is or are of the age of nineteen (19) years or over; extreme exceptions by Zoning Board of Appeals for temporary permission for younger children for a period of up to 6 months; or
- d. Adults under fifty-five (55) years where it can be shown that the presence of such person is essential to the physical care of an older person or qualifying individual or individuals, by reason of their medical condition.

The applicant will have to demonstrate how these provisions will be enforced and the consequences if the provisions are not met after applicants qualified a, b, c, d above take title.

3. Ownership

The ownership, use, or occupancy of the residential units in such PRRC may be achieved through fee simple, condominium, or cooperative ownership, or the granting of a leasehold interest. The manner of ownership shall not be dispositive of the development's qualifications as a PRRC. Said parcel shall be deemed to qualify as a PRRC if its ownership, use, or occupancy, as set forth in its by-laws, rules, regulations, covenants or restrictions as applicable are restricted and dedicated to and conform with eligibility criteria set forth in 2a, 2b, 2c, or 2d above.

4. Guests

Notwithstanding the foregoing, nothing contained herein shall be construed to prohibit the adoption of any rules, regulations, laws, covenants, and restrictions permitting the permanent residents of such communities to invite members of the extended family or guests, or both, for temporary visits, from time to time, or prohibiting the adoption of such other rules that are appropriate for such community. In no case shall "temporary" exceed three (3) months.

5. Minimum Lot Dimensions

- a. Single Family Detached Units: In no case shall single family detached housing in fee simple ownership be placed on lots smaller than five thousand (5,000) square feet. This lot size minimum shall not apply to units in condominium ownership.
- b. Single Family Attached, Semi-Detached, and Multi-family Units: In no case shall single family attached and semi-detached units in fee simple ownership be placed on lots smaller than two thousand (2,000) square feet per unit.

6. Building Height

The maximum permitted building height within a PRD or PRRD shall be thirty-five (35) feet and two and one-half (2 ½) stories.

7. Maximum Coverage

- a. The maximum permitted coverage of gross site area on an age-oriented PRRD site shall be twenty-five (25%) percent for buildings and forty (40%) percent for impervious surfaces.
- b. The maximum permitted building coverage on a PRD site shall be fifteen (15%) percent and impervious surfaces shall not exceed twenty-five (25%) percent.

8. Screening and Buffering

The minimum buffer area shall in no case be less than fifty (50) feet measured from the boundary of the PRD or PRRD to the nearest building, parking area, or active recreation area. In reviewing the development plan, the Planning Board shall consider the setback and proposed screening of active recreation areas and may require buffer areas of up to one hundred (100) feet for such uses. Buffer and screening areas shall be landscaped or left in their natural state wherever possible.

9. Open Space and Recreation Areas

At least one-third (1/3) of the gross acreage of any PRC or PRRC shall be composed of land which is used for recreational purposes and/or preserved as permanent open space and neither used for motor vehicles nor located within twenty (20) feet of a building.

10. Vehicular Circulation System and Traffic Access

All streets and driveways within a PRC or PRRC shall be designed to adequately serve their intended traffic function and the anticipated volume or traffic of the development. Adequate access for PRRC shall be provided via a public road to a State or County highway either directly or by a new road built to current Town standards for a two lane road. Major traffic circulation streets which connect to the various sections of the PRRC and provide access to the off-site roads shall be designated "collector roadways" and shall be paved to a width of not less than twenty-two (22) feet with a fifty (50) foot right of way. All other vehicle circulation elements shall be designated as "minor roadways" and shall be paved to a width of not less than twenty (20) feet with a thirty (30) foot right of way. These standards shall also apply to a PRC, but a PRC must have direct access to a State or County highway.

11. Pedestrian Circulation System

In each PRC or PRRC a pedestrian circulation system shall be designed and installed in addition to the vehicular circulation system, which is sufficient for the needs of its residents. Such a system might be composed of a combination of paved and unpaved walkways and bikeways of appropriate width, design, and location to serve their intended function.

12. Utilities and Services

- a. **Underground Lines:** All power and communication lines, as well as water, sewer, and storm drainage lines (where approved by the Town Engineer) shall be installed underground in the manner prescribed by the regulations of the government agency or utility company having jurisdiction. Storm drainage is encouraged to be located in open swales.
- b. **Preliminary Approval of the Site Plan:** All buildings within PRD's and PRRD's shall be served by central water supply and sewage treatment systems as approved by appropriate government agencies having jurisdiction thereof. Preliminary Planning Board approval shall be conditioned on approvals of other agencies where other agencies are required to provide approvals. Individual privately owned wells shall not be permitted. An exception to the central sewer requirements is made for up to five (5) model homes in a PRD or PRRD on a temporary basis for up to two (2) years. Thereafter, they shall be tied into the central sewer system or no further building permits will be issued for the development.
- c. **Future Needs:** Where utility facilities are provided they shall be planned in such a way as to anticipate future utility needs and wherever reasonably feasible shall be sited to reduce the capital costs associated with any future central utility construction.
- d. **TV Hookups:** TV hookups shall either be by cable television or central antenna system designed to minimize adverse aesthetic impact.

- e. Refuse Collection: The PRC or PRRC shall provide an adequate means of collection and storing refuse between collections including recycling. Any outside storage and garbage shall be in centrally located containers designed to prevent rodent infestations and shall provide sufficient screening as determined by the Planning Board.
- f. Cooling Systems: Cooling systems shall be designed so as to minimize adverse aesthetic impact.
- g. Surface Water Runoff: A surface water management plan shall be developed to demonstrate that the rate of storm water runoff from the site after construction is no greater than the rate of runoff prior to development.
- h. Surface Water Quality Runoff: The surface water discharges shall meet appropriate State and Federal standards for water quality.

13. Parking

- a. All parking facilities shall be located upon the same tract of land as the buildings they are to service.
- b. Parking areas shall be provided on site within areas designed and designated specifically for parking and not on or along streets.
- c. There shall be a minimum of not less than two (2) parking spaces for each dwelling unit in a PRC and a maximum of two (2) parking spaces for each dwelling unit in a PRRC. At least ten (10%) percent of such spaces shall be designated for guest parking.
- d. All spaces shall be located within designated parking areas or within the structure of buildings. Access to roads, driveways or parking areas shall be designed such that no vehicles are required to back onto “collector” streets.

14. Certificate of Occupancy

No certificate of occupancy shall be issued for the use or occupancy of any building or dwelling located in a PRD or PRRD unless said building or dwelling has been constructed in accordance with and substantially complies with the approved site development plan.

15. Maximum Length of Building

No building, dwelling unit, or other structure shall be constructed to a length in excess of one hundred fifty (150) feet except for a commercial building upon approval by the Planning Board.

16. Maximum Clearance of Vegetation

Existing vegetation may be cleared for the construction of the buildings, parking areas, dwelling units, and recreation areas forming the PRC or PRRC to a maximum of fifty (50%) percent of the total gross site area for a PRD and a maximum of sixty (60%) percent of the total gross site area for a PRRD.

17. Minimum Livable Floor Area

The minimum livable floor area for any residential dwelling unit in an age-oriented PRRC shall be as follows:

- a. Studio and One-Bedroom Residential Units: 600 square feet.
- b. Two-Bedroom Residential Units: 800 square feet.

18. Distance Between Buildings

There shall be a minimum distance of twenty (20) feet between all structures and a minimum distance of fifty (50) feet between the front or rear of a residence and another residential structure.

L. Application Procedure

The application and approvals shall consist of three (3) sequential phases.

1. Phase 1

The first phase will be an optional discussion of requirements with the Town Board and Planning Board at a joint meeting. In this phase the applicant may, prior to formal submission of the Development Plan application as described below, meet in a pre-application conference with the Town and Planning Boards. At this conference meeting the applicant and Town and Planning Boards shall review the requirements and procedures defined herein, discuss the general planning concepts for the proposed development, and determine at the meeting if the proposal meets the requirements of this Law for a PRD or PRRD. At least fifteen (15) days prior to a meeting with the Boards, the applicant shall submit fifteen (15) copies of a sketch plan of the PRC or PRRC at a scale of 1" = 200' with sufficient detail as to land uses and access points to permit the Boards to determine if the proposal meets the basic PRD or PRRD requirements. The purpose of this phase is to clarify the regulations, provide for better understanding, and make the development process more efficient. It is optional at the discretion of the applicant.

2. Phase 2

The second phase is submission of the plans to the Town Board for designation or re-zoning of the area as a PRD or PRRD and the simultaneous PRC or PRRC Plan Review by the Town Board and Planning Board or the alternative re-zoning of the site, which procedure is described in subparagraph a. below. The application for designation of the PRD or PRRD and PRC or PRRC Development Plan shall consist of the following, of which twenty-five (25) copies shall be submitted to the Town Board.

a. Alternate Re-Zoning Procedure, GEIS, and Fees

The applicant may opt to break Phase 2 into two (2) separate phases by requesting a re-zoning of the site supported by the preparation and submission of a Generic Environmental Impact Statement (GEIS), and later address items b. through i. below with more detailed site plans and a site specific Supplemental Draft Environmental Impact Statement after such zone change has been approved. If this option is chosen, the GEIS shall address, at a minimum, the following concerns: (1) water – adequacy for units proposed for domestic and fire flow protection and general location of towers and well field(s); (2) sewer – demonstrate means of sewage treatment, location of plant and waste assimilative capacity analysis of stream to be used for sewage discharge; (3) layout of site showing general density, type, location and mix of dwelling units; (4) wetlands

based on State DEC maps; and also potential Federal wetlands based on either soils maps or National Wetland Inventory maps, whichever is more stringent; (5) proposed areas of open space and recreation; and type of recreation planned; (6) traffic access including average annual daily traffic volumes, peak hour volumes, sight distance at access locations to existing road(s) and description of need (if any) for upgrading of access road; (7) drainage basins and channels including floodways and flood plains (if any); and (8) a site map at a scale no larger than 1 inch = 200 feet, with a scale of 1 inch equals 100 feet being preferable, and such map showing slopes based on 20 foot contour maps or smaller contour intervals if the same are readily available. The GEIS must be prepared in adequate detail for the Town Board and general public to fully understand the scope and impact of the overall project and what measures need to be taken to mitigate these impacts in the future.

i. Fees

The submission of the GEIS for review shall be accompanied by a SEQRA review deposit of \$10,000 to be placed in escrow by the Town. Such funds shall be used by the Town to defray the costs of consultants retained by the Town to review said GEIS. As specified in paragraph g below, the total SEQRA review fee shall be determined in accordance with the requirements of NYCRR Part 617, and shall not exceed the amount provided for therein. Funds not expended for the review of the GEIS shall be returned to the applicant within sixty (60) days after the completion of the GEIS review process and the rendering of the Town Board decision on the re-zoning, pending any submission of an application and detailed plans and accompanying documents as detailed in paragraphs b. through i. below.

ii. Public Hearing

Within thirty (30) days of acceptance of a GEIS as being complete by the Town Board, the Town Board shall hold a public hearing on both the GEIS and the re-zoning request. Said public hearing shall meet the notice and procedural requirements for public hearing set forth in the Town Law, Section 274-a(2). The GEIS SEQRA hearing and zone change hearings shall be conducted simultaneously, if possible.

iii. Decision of the Town Board

Within thirty (30) days of the preparation of the written findings statement on the GEIS, the Town Board shall, by resolution, act either or approve, approve with modifications or conditions, or disapprove the PRD or PRRD re-zoning request. If the re-zoning request is disapproved, the reasons for disapproval shall be stated.

iv. Expiration

Approval or approval with modifications, of the PRD or PRRD zone shall expire after twelve (12) months of the date of issuance, unless the applicant has either submitted applications materials and the requisite fees set forth in paragraphs b. through i. of this section; or such time limit is extended by the Town Board for a reasonable period of time to be specified by the Town Board.

b. PRC or PRRC Development Plan

The PRC or PRRC Development Plan shall be drawn at a scale of not greater than one (1) inch equals two hundred (200) feet and must consist of one (1) or more sheets indicating the following information:

i. Ownership

Property lines and the names of all adjoining streets and property owners.

ii. Neighboring Uses

A map showing the uses of land in and adjacent to the site.

iii. Topography

Topographic information including contours with a vertical interval of no more than five (5) feet.

iv. Features

Existing natural and man-made features, including streams, wetlands, significant rock outcroppings, stone walls, flood plains, slopes over fifteen (15%) percent, slopes over twenty-five (25%) percent, buildings, and other improvements.

v. Circulation

The proposed elements of the vehicular and pedestrian circulation system.

vi. Land Use Plan

A land use plan showing the proposed uses of the site, including open spaces and recreation area(s), the location of residential areas, their type, size and composition, any area of non-residential use, and sites reserved for public utilities.

vii. Utilities and Services

The nature and general location of all utility and service systems and facilities, including sewer, water, storm drains, public utilities, and refuse storage.

viii. Applicant and Owner

The name and address of the applicant, the property owner, and, if the applicant is other than the property owner, the evidence of his authority to act on behalf of the property owner.

c. Written Statement

The written statement accompanying the PRC or PRRC Development Plan shall consist of a text description of the proposed plan indicating how it will serve to

implement the intent and purpose of such developments as set forth in this section, a preliminary analysis estimating the various quantitative elements of the plan including the number of residential dwelling units (by type), the amount of non-residential floor space, the number of off-street parking spaces and facilities, as well as the types of planned recreation facilities, proposals for the construction, operation and maintenance of all recreation facilities, open space, parking areas, walkways, utilities, and other common lands and facilities.

d. Staging Plan

A proposed plan indicating the approximate staging of building construction and related improvements within the PRC or PRRC, including the general order of construction and the estimated timing of each stage.

e. List of Approvals Required

A list of approvals that are required from various governmental agencies prior to proceeding with the first stage and any subsequent stage of development.

f. Environmental Documents

A proposed site specific DEIS contents scope shall be submitted by the applicant and a date for a scoping session will be set by the Town Board that is mutually convenient to the applicant and the Town Board within thirty (30) days of their first meeting after receipt of required documents. A Draft Environmental Impact Statement (DEIS) will be prepared in accordance with the requirements of the New York State Environmental Quality Review Act (SEQRA) describing the anticipated physical impacts of the proposed development, including any negative impacts that may result and actions planned by the applicant to mitigate them.

g. Fee

The application and accompanying documents shall be accompanied by a filing fee of \$10 per unit and an initial \$10,000 SEQRA deposit to be placed in escrow; except in cases where an applicant has pursued the alternate procedure set forth in paragraph a. above; in such a case, the SEQRA deposit shall be reduced to \$5,000. The actual SEQRA fee shall be determined in accordance with SEQRA regulations and shall not exceed the amount provided for therein. The developer or applicant shall be responsible for all fees for consultants retained by the Planning Board and/or Town Board to review the project. Following the completion of the SEQRA process, the applicant shall place money in an escrow account to cover these costs. Funds not used shall be returned to the applicant within sixty (60) days of final approval for all phases or sections of the project.

h. Other Referral

To receive further assistance in its designation review, the Town Board may refer the proposed PRC or PRRC Development Plan to the Town Engineer, Town Planner, and any such agencies or officials of the Town, County, or State government as the Board may determine appropriate. Mandatory referrals, if any, shall also be made at this time.

i. Public Hearing

Within thirty (30) days of acceptance of a site specific DEIS as being complete by the Town Board, the Town Board shall hold a public hearing on both the PRC or PRRC plan and DEIS. Said public hearing shall meet the notice and procedure for public hearings set forth in the Town Law, Section 274-a(2). The site specific DEIS SEQRA hearing and zone change hearings, if the applicant has not opted to choose the alternative zone change procedure outlined in paragraph a. of this section, shall be conducted simultaneously if possible.

j. Decision of Town Board

Within thirty (30) days of the date of the circulation of the site specific Full Environmental Impact Statement (FEIS) and preparation of its Written Findings Statement, the Town Board shall, by resolution, act either to approve, approve with modifications or conditions, or disapprove the PRD or PRRD application. If the application is disapproved, reasons shall be stated. The Town Board can designate the Planning Board to act in its place.

k. Effect of Approval

Approval by the Town Board, or approval with modifications, shall be deemed to authorize the applicant to proceed with the detailed design of the initial stage(s) of the proposed development, and to submit applications for detailed site plan approval of such stage(s), or sections thereof, in accordance with the approved PRRC or PRC Development Plan. When the PRD or PRRD is approved by the Town Board such action shall be considered as a zoning of the specific site for a PRD or PRRD and the Zoning Map shall be revised and dated accordingly. The Town Board can designate the Planning Board to act in its place.

l. Expiration

Approval, or approval with modifications, of the PRC or PRRC Development Plan shall expire at the end of twelve (12) months after the date of issuance, unless (a) the applicant has submitted at least one (1) detailed site plan application for a section of the PRC or PRRC; or (b) such time limit is extended by the Town Board for a period to be specified by the Town Board. The Town Board can designate the Planning Board to act in its place.

m. Filing

The overall PRC or PRRC plan shall be filed with the Town Clerk within sixty (60) days of its approval by the Town Board, and may be amended under the same procedure as stipulated for its original adoption.

n. Standards to be used in Reviewing a PRC or PRRC Development Plan Application by the Town Board. In arriving at a decision to approve or disapprove the PRC or PRCC development plan application, the Town Board shall take into consideration the following:

i. Compliance with Intent and Purposes

The extent to which the application will serve to implement the intent and purposes of these regulations for PRD's and PRRD's.

ii. Compliance with Standards

Whether the proposed uses meet the standards set forth in this Section.

iii. Natural Features

The proposed arrangement of land uses and their proposed layout on the site, including their compatibility to natural topographic features and adjoining properties.

iv. Impact

The impact of the proposed development upon neighborhood properties and the community as a whole.

v. Staging Plan

The staging plan shall be designed to assure that future residents of the first sections of the PRC or PRRC shall have adequate services, including all utilities, streets, recreational facilities, and landscaping to suit their needs, even if future stages do not materialize.

3. Phase 3: Detailed Site Plan Approval for PRC or PRRC Sections by the Planning Board

The third phase shall be detailed site plan review and approval of the PRC or PRRC sections by the Planning Board. This phase may also include possible subdivision review and approval and any necessary SEQRA reviews by the Planning Board which may be done simultaneously with site plan review. An Environmental Impact Statement (EIS) is a requirement for establishment of a PRD or PRRD by the Town Board. If the plans have changed substantially since the original EIS, or if a substantial period of time has elapsed which modifies conclusions in the EIS, or if an EIS was never completed, the Planning Board may require a new or supplementary EIS prior to approval of the site plans for a PRC or PRRC.

a. Initiation of Third Stage

Subsequent to Town Board approval of the PRC or PRRC Development Plan application, the applicant shall proceed to the third stage or review which involves detailed site plan approval of the various sections of the PRC or PRRC.

b. In the case of a PRRC which has been previously mapped on the Zoning Law Map by the action of the Town Board, and for which a Phase 2 submission was not required, the applicant shall first submit to the Planning Board a PRRC Development Plan as provided under Phase 2, the Planning Board shall review this Development Plan and shall act on it in the same manner as is set forth for actions by the Town Board, and following review and approval by the Planning Board the said Development Plan shall be invested with the same effect of approval as is set forth under Section 2j of the application procedure section of the Local Law. In the event that the Planning Board does not approve a Development Plan within the time allotted, or it approves a plan with conditions that are substantially different from those which were proposed by the Applicant, the Applicant may in such instance request a review by the Town Board, whose action shall be taken within sixty (60) days of a request, and in such instances the action of the Town Board shall be deemed to be final and

binding unless there is a decision to the contrary by a court of law with jurisdiction in the matter.

A developer shall have the option of submitting a site plan for all or sections of the property for simultaneous review with that of the Development Plan and the DEIS in accordance with the provisions for Phase 3 set forth below.

c. Site Plan Approval

The review and approval of the individual site plans for each section shall be in accordance with the standards, requirements, and procedures for reviewing plans as delineated in the Zoning Law, with the additional requirements set forth herein. Site plan approval shall be required prior to the issuance of building permits within any section or stage of an approved PRC or PRRC.

d. Phases

The site plan requirement, when applied to the review of a section of a PRC or PRRC, shall be deemed also to include the factors listed in Phase 2 of those that apply to each section of the PRC or PRRC, and a detailed review of the adequacy, location, arrangement, design, and appearance of each aspect of development listed in the application procedure. While the scope of the Planning Board's review of the site plan will generally relate to the section of the PRC or PRRC at issue, the Planning Board shall have the authority to assure that aspects of the development (e.g. water, sewer, utilities, streets, etc.) which will later be used to service, or connect to, other sections of the PRC or PRRC shall be adequate to suit the purposes and needs of the PRC or PRRC development as a whole.

e. Fee

Each application for sectional site plan approval shall be accompanied by a fee as stipulated by Chapter 75, Development Fees. If a subdivision is also required there will not be a duplicate subdivision fee.

f. Variation from PRC or PRRC Development Plan

The specific type and number of proposed dwelling units within the development may be varied by no more than ten (10%) percent from the distribution as shown on the approved PRC or PRRC Development Plan, but in no case shall the total number of dwelling units in the entire PRC or PRRC be permitted to exceed the number approved as a part of the PRC or PRRC Development Plan. The configuration of open space and internal circulation system may be revised provided not more than fifteen (15%) percent of the area of the site is affected by such change and the circulation system access points to off-site roads are not altered by more than fifty (50) feet.

g. Legal Assurances

Each application for detailed site plan approval shall be accompanied by appropriate legal documents as may be necessary to provide for and assure continued proper future maintenance and ownership responsibilities for all common areas, facilities, and utilities within each stage of development or section thereof.

h. Other Assurances

The Planning Board may condition its approval upon the applicant obtaining any other necessary approvals from the appropriate Town, County, State, or Federal agencies having jurisdiction thereof.

i. Phased Approval

To assure orderly development within a PRD or PRRD, the Planning Board shall approve site plans for subsequent sections of the PRC or PRRC only as the pace of development in preceding sections may warrant.

j. Performance Bonds

The applicant shall be required to post performance security pursuant to Town Law Section 277 in sufficient amounts and duration to assure that all streets or other public places shown on the site plan shall be suitably graded and paved and that street signs, sidewalks, street lighting standards, curbs, gutters, street trees, water mains, fire alarm signal devices including necessary ducts and cables or other connection facilities, sanitary sewers or storm drains shall be installed in accordance with standards, specifications, and procedures acceptable to the appropriate Town departments. The developer must also post an escrow account in the amount of 10% of the performance bond for inspections by the Town Engineer. The developer must also post an escrow account in the amount of 10% of the performance bond for administration of the project. If developer requires extra building inspections to proceed at an advanced pace he should deposit an escrow account with the Building Department for additional inspections.

k. Permanent Open Space

All areas designated as permanent open space on a development unit site plan shall conform to the following requirements:

- i. Such areas shall be recorded directly on the site plan and notes shall be added thereon excluding such open space areas from any other development unit.
- ii. A written agreement between the owner or his agent, or developer shall be approved by and filed with the Town Board. This written agreement shall cover the deed, title, and dedication, if any, of all such open space areas, as well as the provision for any developmental or maintenance costs. The Town may require that security be posted covering such cost items. The Town Attorney and the Town Board shall approve the amount, duration, form, and manner of execution of said security. A subdivision plat submitted for all or a portion of said development unit shall designate such area as permanent open space and notes shall be attached directly to the plat providing that such areas shall not be subdivided or development in the future.
- iii. Assessment of taxes on the open space owned by a homeowners association shall be nominal (\$1 per year), the balance of the true value assessment of the open space(s) being divided equitably among owners of the benefiting properties within the PRD or PRRD.

Town of Deerpark Zoning Law

- iv. The fee in lieu of parkland required by the Town Board and Planning Board for dwelling units in a subdivision shall also be applicable to dwelling units in a PRC or PRRC, unless the parkland and general open space in the PRC or PRRC are available to the general public, in which case the fee shall not exceed half the fee normally required by law.

Please take notice to the extent that this Local Law may conflict with applicable portions of the Town Law and the State of New York, it is the stated intention of the Town to exercise its authority to supersede and amend, as granted under the Municipal Home Rule Law of the State of New York, Section 10. The Town hereby provides notice that it is exercising its authority to supersede and amend pursuant to Municipal Home Rule Law of the State of New York Section 22.

- M. Planned Residential Retirement District for the Premises Designated as Section 23, Block 1, Lots 32.2 and 38.3 on the Tax Map of the Town of Deerpark, consisting of approximately 243 acres located on Wilson Road within the Town (Local Law 4 of 2006, filed with the Town Clerk on August 8, 2006)

Description of Action: Local Law creating a new section of the Zoning Law of the Town of Deerpark within the Town Code.

Reasons for Supporting this Documentation:

1. The anticipated impacts of the action being considered are primarily of local significance; and
2. This agency has the broadest governmental powers for investigation of the impact of the proposed action; and
3. This agency has the greatest capability of providing the most thorough environmental assessment of the proposed action.

- N. Determination of Significance

The Town Board of the Town of Deerpark hereby determines that the enactment of this Local Law will not have a significant effect on the environment and that the proposed Planned Residential Retirement District on the specific tax lots set forth in Local Law No. 3 of 2006 will conform with the Comprehensive Plan of the Town and must proceed through environmental review before the Planning Board of the Town of Deerpark, at which time the Planning Board will assume lead agency status for the specific environmental review of the proposed project.

§ 230-26 Multi-Family Residential Uses

- A. Multi-family dwelling projects shall be considered major subdivisions. This “major subdivision” classification shall apply to all subdivisions of property in connection with the development, regardless of whether or not the same are connected with building development, and the approvals required shall be requested and acted upon concurrently as one subdivision. Application for preliminary approval of multi-family dwelling projects, accordingly, will be made to the Town in the manner provided under the Town Land Subdivision Law. The subdivider shall also submit all information required by such Regulations plus the following additional data:
 1. An application for approval on a form to be supplied by the Town or, in the absence of such form, by a letter or brief from the developer or his or her representative indicating how the development will specifically comply with or meet the criteria set forth herein.

Town of Deerpark Zoning Law

2. A proposal plot plan showing the approximate (generally within five feet) locations of all buildings and improvements including parking areas, planting strips (if any), signs, storm drainage facilities, water supply, sewage treatment and collection systems and the specific areas provided as open space in connection with the requirements of this Law. Building layouts, floor plans and profiles shall also be provided indicating building dimensions, numbers, and sizes of units, common ownership or use areas (apart from the open space referenced below), lighting and such other information as shall be required to determine compliance with the design standards contained herein and any other building standards which may be applicable in the Town of Deerpark. Setbacks from property lines, improvements and other buildings shall also be indicated.
 3. A schedule or plan and proposed agreement(s) either with the Town or a property owners' association for the purpose of dedicating, in perpetuity, the use and/or ownership of the recreation area and open space required by this Law to the prospective dwelling owners or occupants. Such agreement may be incorporated in the applicant's proposed covenants and restrictions, but shall in any event, provide to the satisfaction of the Town that maintenance and use of the property, regardless of ownership, be restricted to either: (1) activities intended for the sole benefit of the occupants of the particular project proposed or, (2) permanent open space as hereinafter provided.
- B. The Planning Board shall act on the Preliminary Development Plan and Special Use application concurrently provided an Environmental Assessment is also conducted pursuant to the New York State Environmental Quality Review Act. No building permit shall be issued to the applicant, however, until all conditions attached to the approval of any preliminary Development Plan, shall have been satisfied and nothing herein shall be construed as permitting the issuance of a building permit prior to Preliminary approval. This requirement notwithstanding, the building permit application shall be made with the Preliminary Development Plan and shall, if granted, be valid for a period equal to that for Preliminary Development Plan approval. If the Preliminary Development Plan shall be rejected no building permit shall be granted.
- C. Following Preliminary Plan approval, the developer shall provide for the installation of required or proposed improvements including but not limited to streets, parking areas, storm drainage facilities, recreational facilities and lighting subject to inspection by Town Engineer. Inspection to be paid through escrow accounts. Building improvements shall similarly be completed or guaranteed prior to the applicant's request for Final Development Plan approval. No Certificate of Occupancy (where the same is required) shall, however, be issued until such time as: (1) Final Development Plan approval shall have been granted in accordance with the procedures and requirements of this Law and (2) buildings have been completed and inspected by the Town Building Inspector.
- D. Complete final building plans shall also be submitted as part of the Final Development Plan application.
- E. No person shall sell, transfer, lease or agree or enter into an agreement to sell or lease any land and/or buildings or interests in the individual dwelling units to be created, or erect any building thereon except in accord with the provisions of this Law, unless and until Final Development Plan approval shall have been granted (unless the improvements shall have been guaranteed) and the Plan has been recorded in the Office of the Orange County Clerk.
- F. Multi-family dwelling density shall be granted a 300% density bonus above the number of dwelling units per acre which would be permitted within the District if the parcel on which the units are to be constructed were to be developed for one-family residential use. Density shall be calculated by taking the total acreage of the development and deducting the following acreages:
1. Land contained within public rights-of-way;

Town of Deerpark Zoning Law

2. Land contained within the rights-of-way of existing or proposed private streets. (Where formal rights-of-way are not involved, the width shall be assumed to be fifty (50) feet);
 3. Land contained within the boundaries of easements previously granted to public utility corporations providing electrical or telephone service;
 - b. All wetlands, floodplains, slopes of 15% or greater grade, water bodies, and other undevelopable areas; and dividing by the number of proposed units.
- G. All areas of a multi-family development not conveyed to individual owners, and not occupied by buildings and required or proposed improvements, shall remain as permanent open space or be dedicated to recreation area to be used for the sole benefit and enjoyment of the residents of the particular units being proposed. No less than 50% of the tract shall be used for this purpose and fees in lieu of dedication may not be substituted for such space. Such open space shall be subject to the following regulations:
1. No less than 50% of the open space to be provided (25% of the total tract) shall be dedicated to recreational area for the sole benefit and enjoyment of the residents of the particular units proposed. Recreation areas (as distinct from other open space) shall be immediately adjacent (part of the same parcel and contiguous) to the proposed units and freely and safely accessible to all residents of the development. They shall not be used to fulfill open space requirements or provide recreational areas for residents of other units, excepting as provided for in subsection 2 below. They shall be usable for active recreational activities and shall not include wetlands, quarries, slopes over 15% in grade, water bodies or acreage used for improvements such as storm drainage facilities or sewage effluent disposal areas.
 2. Land designated as open space shall be permanently maintained as such and not be separately sold, used to meet open space or recreation area requirements for other developments, subdivided or developed excepting that a holding zone may be reserved for future development pursuant to density and other zoning requirements as they presently exist, provided such lands are specifically defined and indicated as “reserved for future development” on all Development Plans. Such lands shall not be included in calculating permitted density for the proposed development. These provisions, however, shall not be construed as granting or reserving to the developer any rights or privileges to develop on the basis of a “pre-approved plan” if density or other zoning requirements shall have been modified to preclude such development.
 3. Open space areas shall be permanently maintained so that their use and enjoyment as open space are not diminished or destroyed. Such areas may be owned, preserved and maintained by dedication to a property owners association which assumes full responsibility for maintenance of the open space and/or deed-restricted private ownership which shall prevent development of the open space, provide for its maintenance and protect the rights of owners or occupants of dwelling units to use and enjoy, in perpetuity, such portion of the open space as shall have been dedicated to recreation area for the project. This is intended to allow the owner/developer to retain ownership and use a portion of the property (for hunting, fishing, etc.) provided the permanence of the open space is guaranteed.
 4. Whichever maintenance mechanism(s) is used, the developer shall provide, to the satisfaction of the Town Attorney and prior to the granting of any Final Development Plan approval, for the perpetual maintenance of the open space and also the use and enjoyment of the recreation area by residents of the units being approved. No lots shall be sold nor shall any building be occupied until and unless such arrangements or agreements have been finalized and recorded.

Town of Deerpark Zoning Law

5. Developments of fifty (50) units or more shall provide one-half (1/2) acre of playground per fifty (50) units unless restricted to adult occupancy only.
- H. All multi-family developments shall be served with community wastewater facilities and water supplies. Effluent disposal areas shall also be subject to the setback requirements applicable to other multi-family buildings and structures as a minimum.
- I. The following design criteria shall apply to multi-family developments:
1. There shall be no more than twelve (12) dwellings in each multi-family building.
 2. No structure shall be constructed within fifty (50) feet of the edge of any access road to or through the development or within ten (10) feet of the edge of any parking area.
 3. Access roads through the development shall comply with minor street requirements as specified in this Law and no parking space shall be designed such that a vehicle would be backing or driving out onto a through road. Instead, there shall be a defined entrance and exit to and from each parking area.
 4. No multi-family development shall be served by more than one (1) entrance and one (1) exit from any public highway, unless topography or other physical circumstances would preclude the use of a single entrance in a safe manner.
 5. Parking spaces of two (2) per unit shall be provided plus, for every two (2) units intended for rental or other transient occupancy, one (1) additional space to accommodate parking needs during sales and other peak visitation periods.
 6. No more than sixty (60) parking spaces shall be provided in one (1) lot, nor more than fifteen (15) in a continuous row without being interrupted by landscaping. All off-street parking shall be adequately lighted and so arranged as to direct lighting away from residences.
 7. No structure shall be erected within a distance equal to its own height or any other structure.
 8. All multi-family structures shall be a minimum of one-hundred (100) feet from any of the exterior property or boundary lines of the particular project involved and seventy-five (75) feet from any public right-of-way.
 9. Where a property line is not wooded, a planting strip of fifty (50) feet in width shall be required to buffer adjoining property owners and ensure privacy. Similar buffering of areas adjoining County and State highways shall be required. A landscaping plan shall also be prepared and submitted to the Planning Board for approval.
 10. Multi-family developments shall be subject to the stormwater management requirements of this Law. Facilities shall be designed to accommodate storms of a 25-year average frequency unless a more stringent standard shall be recommended by the Town Engineer. The general performance standard shall be that the amount of uncontrolled stormwater leaving the site along any property line after development shall not exceed that estimated for the site prior to development.
 11. All electrical and other utilities shall be placed underground and buried to a depth determined by the Town Engineer as sufficient for safety purposes.
- J. Maintenance of a multi-family project shall be vested in (1) an association or other legal entity organized prior to the offering of the first unit for occupancy, or (2) a manager, who may be the developer, or a person designated by the developer before the developer offers a unit for

occupancy, or (3) the owners or occupants of units themselves if the total number of owners or occupants within the development is not more than five (5). If the developer shall opt to manage the project or designate a manager, the preliminary application shall include financial statements, a description of previous management experience and other data sufficient for the Planning Board to ascertain the financial responsibility of the manager.

- K. The association or manager, as the case may be, shall be responsible for maintenance, repair and replacement of the common areas of the development including buildings and, if applicable, the furniture, fixtures and equipment within the units. The project instruments shall specify the expenses that the maintenance organization may incur and collect from purchasers as a maintenance fee and secure maintenance of the project and enforcement of applicable covenants and restrictions in perpetuity. The Planning Board may require that a Certified Public Accountant review such financial data to determine the proposed fees are, in fact, adequate to secure maintenance on a continuing basis.
- L. The developer shall, in filing a Preliminary Development Plan, provide a narrative description of how responsibility for maintenance and care of the units and common areas will be assured and a pro forma operating budget for the maintenance organization including a breakdown of the common expense to be borne by the maintenance organization and a separation of long-term maintenance costs from on-going routine maintenance costs. There shall also be provided a narrative description of how the developer proposes to assure maintenance of the units and common facilities during any sales program. The Planning Board may require additional temporary facilities to accommodate service demands. Copies of all applicable instruments shall be provided, for purposes of determining that long-term arrangements for maintenance of common facilities have, in fact, been made by the developer.
- M. Any developer who proposes to construct multi-family dwellings and convey the common elements of said multi-family dwelling project, including recreation areas, to an association of purchasers of units therein shall submit a maintenance bond or other performance guarantee acceptable to the Town Board and Town Attorney ensuring long-term maintenance and repair of said common elements. Such maintenance bond or other guarantee shall:
1. Be for a period of not less than fifteen (15) years from the date of the final approval of said multi-family dwelling-transient use by the Town;
 2. Be in an amount equal to the amount collected or to be collected for long-term maintenance (as indicated in the budget referenced above) by the developer or other responsible parties from each purchaser during the first year after sales to such purchases begin, multiplied by a total number of expected purchasers.
- N. If the development shall be subject to the New York State statutes governing the sale of real property used for multi-family occupancy, the developer shall certify as to his or her compliance with said statutes. To the extent the provisions of such statutes conflict with this subsection such certification shall suffice as to conformance with these requirements.
- O. Conversions of motels, hotels or other existing structures to multi-family dwelling use regardless of whether such conversions involve structural alterations, shall be considered subdivisions and, moreover, be subject to the provisions of this Law. If the proposed project does involve structural alterations, the Preliminary Development Plan shall include a certification of a registered architect or engineer to the effect that the existing building is structurally sound and that the proposed conversion will not impair structural soundness. However, the conversion of an existing one-family detached dwelling or single family semi-detached dwelling into not more than three (3) residential units shall be exempt from these requirements, unless such units are intended to be a condominium. This shall not, however, exempt an owner from any requirements of the State Building Code or the Town Zoning Law as they may pertain to such activities.

§ 230-27 Conversions of Residential or Non-Residential Structures

Any conversion of a residential structure to a more intensive residential use or a non-residential use shall require Planning Board approval. Similarly, the conversion of any non-residential use to multi-family dwellings shall require a Planning Board approval. The following additional review criteria shall apply in both instances:

- A. If the use requires a Special Use permit due to the proposed use, this must be secured for approval.
- B. There shall be adequate parking to accommodate the new use in combination with other activities on the property or in the vicinity.
- C. There shall be demonstrated sewage treatment and water supply capacity to serve any increased needs connected with the new use.
- D. The conversion shall not result in increased residential density exceeding that permitted within the district. If, for example, the minimum lot size is two (2) acres then no more than one (1) equivalent dwelling unit shall be permitted per two (2) acres of lot area.
- E. Conversion of a residential structure to a non-residential use shall not be permitted where the new use is not otherwise allowed. Adaptations of any such structure should preserve its architectural integrity and residential character, except for minimal signage, required parking and other features mandated by the nature of the business.

§ 230-28 Sand, Gravel and Quarrying Operations (Extractive Uses)

- A. Sand, gravel and other quarrying and excavating industries shall be permitted as Special Uses in the RR, IB, HMU, and I-I Districts provided the limits of such operations shall extend no closer than five-hundred (500) feet to any existing residence, institution or building, public water supply source or other public or semi-public facility as mapped by the Town. In the case of blasting operations, this distance may be increased by the Planning Board. The Board may also limit the extension of such operations within or into any aquifer or watershed protection overlay zone that may be designated by the Town of Deerpark to protect a public water supply.
- B. All extraction industries shall comply fully with the Mined Land Reclamation Law and provide evidence of such compliance in connection with any Special Use application.
- C. The manufacturing or processing of asphalt shall not be considered part of any extraction industry and proposals for such uses, if and where permitted, shall be fully subject to the requirements of this law, notwithstanding preemptions of authority under the Mined Land Reclamation Law.
- D. All sand, gravel and quarrying operations shall be subject to the provisions of § 230-16 hereof relating to traffic and the Planning Board may require traffic studies to determine the need for special entrance designs, the construction of acceleration and deceleration lanes, and the like.
- E. Planning Board shall require an up to 200 feet buffer area around the mining operation.

§ 230-29 Telecommunication Facilities

- A. Purposes:

Town of Deerpark Zoning Law

1. To establish clear standards for the siting of telecommunications facilities, buildings and structures, equipment, telecommunication towers and monopoles.
2. To promote the health, safety, and general welfare of the residents of Deerpark, through the establishment of minimum standards to reduce the adverse visual effects of telecommunication facilities, including but not limited to, transmission towers and antennas, through the use of advanced technology, care design, siting and screening and buffering.
3. To protect residential areas and land uses and property values from potential adverse impacts of towers and antennas.
4. To encourage the location of telecommunication facilities and communication towers in areas suitably screened, buffered and adequately separated from residential uses.
5. To minimize the total number of telecommunication facilities and communication towers throughout the community.
6. To encourage the joint use of new and existing telecommunication tower sites as a primary option rather than construction of additional single-use communication towers, while recognizing the co-location on higher towers is not always preferable to two (2) less visible, less obtrusive shorter towers; thereby maximizing the use of existing communication towers or alternative antenna host sites, while not unreasonably limiting competition among communication providers or unreasonably limiting reception of receive-only antenna.
7. To require users of telecommunication towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is shown to be minimal.
8. To require users of telecommunication towers and antennas to configure them in a way that minimizes adverse visual, aesthetic and community character intrusion impacts caused by the installation and view of communication towers and antennas, through careful design, siting, landscaping screening and buffering, sufficient setbacks to reduce visual impacts to adjacent properties, and innovative camouflaging techniques such as alternative tower structures, thereby protecting the physical appearance of the community and preserving its scenic and natural beauty.
9. To avoid potential damage to adjacent properties from telecommunication towers through careful engineering and appropriate siting of telecommunication towers.
10. To enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently by facilitating the siting of personal wireless communication facilities.

B. Special Definitions:

Adequate Coverage – Coverage to the minimum standards set forth by the Federal Communication Commission to permit the applicant to operate wireless communication service within the area.

Antennas – A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, wireless and microwave communications.

Alternative Tower Structure – Man-made trees, clock towers, bell steeples, light poles and similar alternative designs including structures that camouflage or conceal the presence of antennas or towers.

Town of Deerpark Zoning Law

Co-location – Siting or mounting of multiple telecommunication facilities used by the same provider, or by two or more competing providers, on the same property, antenna support structure or telecommunication tower.

Wireless Communications Services – The provision of personal wireless communications services, including but not limited to, those more commonly referred to as cellular telephone service, regulated by the Federal Communications Commission in accordance with the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. Section 332(c)(7)(C), or as hereafter amended.

Wireless Communication (Telecommunication) Facility – Any site containing equipment used in connection with the commercial operation of Wireless Communications Services, as defined herein, and as the term “personal wireless services facility” is defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. Section 332(c)(7)(C), or as hereafter amended to transmit and/or receive frequencies, including, but not limited to, antennas, monopoles, equipment, appurtenances and structures.

Minor Wireless Communications Facility – Any wireless communications facility situated (1) on the same property as an existing wireless communications facility designed for co-location and previously approved under this law, or (2) on or in an existing building or other structure; and where the equipment consists of a combination of antennas, or other receiving device, necessary in number to facilitate the provision of wireless communication services from such location, provided that such minor installation: (1) comprises antennas, or transmitting and receiving devices which are not more than six (6) feet in height, which are mounted on supports affixed to an existing structure, and (2) operates with all significant equipment accessory thereto (other than the aforementioned antennas and transmitting or receiving devices, supports and connecting cables), installed in interior space appurtenant to such existing building, tower or structure, or located upon a structure the total combined height of which is less than one-hundred (100) feet from the pre-construction average-finished grades.

Major Wireless Communications Facility – Any wireless communications facility that is not a Minor Wireless Communications Facility, including but not limited to any facilities including wireless communications towers, as hereinafter defined.

Wireless Communications Towers – Any freestanding structure including lattice structures or framework and freestanding self-supported vertical pole (commonly known as monopole) on which any equipment is located in connection with the provision of wires communications services.

C. Compliance with State Environmental Quality Review Act:

The application shall be reviewed under the State Environmental Quality Review Act. An application for approval of a Major Wireless Communications Facility shall constitute a Type 1 action.

D. Restrictions on Use:

1. No telecommunications facilities except those approved prior to the effective date of these regulations, shall be used, located, constructed or maintained on any lot, structure or land area unless in conformity with these regulations. No existing structure shall be modified to serve as a telecommunications facility unless in conformity with these regulations.
2. Proposed facilities to first consider Town or Fire Department owned parcels in the required area.
3. All communication facilities shall at all times comply with the rules and regulations of any government entity having jurisdiction over such telecommunication facilities and

Town of Deerpark Zoning Law

uses, antenna and supporting structures and towers, including, without limitation, the FCC and FAA.

4. All telecommunication facilities shall be operated and maintained by an FCC licensee only.
5. All telecommunication facilities shall be demonstrated necessary to provide coverage to an area of Town that currently lacks adequate coverage. Related telecommunication towers or antennas shall also be demonstrated to be the minimum height and aesthetic intrusion possible to provide adequate coverage.
6. All telecommunication facilities, if proposed for placement on a lot that is within or abuts a residential district, shall prove that adequate coverage cannot be achieved by siting the facility on a lot which is not or does not abut a residential district.
7. All telecommunication facilities shall be constructed and maintained in conformance with all building, electrical, fire prevention and other applicable codes.

E. Major Wireless Communication Facilities

1. Approved Zoning Districts:

- a. Major wireless communications facilities shall be a use permitted upon Site Plan and Special Use approval in zoning districts that permit telecommunications facilities as Special Uses.
- b. If it can be demonstrated by the applicant that there is no site in the above referenced zoning districts which could provide coverage consistent with federal regulations, the Planning Board may determine that a major wireless communications facility may be permitted as a Special Use in another district in accordance with this Law.

2. Conditions Precedent to Granting Site Plan or Special Permit Approval

- a. A Service Coverage Map and Report shall be provided. The Coverage Map shall show and describe all existing and proposed areas of service coverage relating to the proposed telecommunications facility. The Service Coverage Map shall locate all existing sites in the Town and in bordering communities which contain telecommunications towers or related facilities. A detailed report shall accompany the Service Coverage Map and shall indicate why the proposed telecommunication tower, equipment and facility are necessary. The report shall identify locations with the proposed project site Service Coverage Area which are not, and could not be, served by either existing facilities, by co-location, utilization of alternative technology or an alternative tower structure.
- b. A long-range Communications Facilities Plan shall be provided, evidencing that the proposed location of the telecommunication facility and supporting buildings and equipment has been planned to result in the fewest number of telecommunications transmission tower locations within the Town. The Plan shall indicate how the applicant intends to provide service throughout the town, and how the applicant plans to coordinate with all other providers of wireless communication services in the Town. The Plan shall address the applicant's planned and possible location of additional tower sites, additional antennas, related service area coverage, and alternative long-range plan scenarios that illustrate the potential effects of multiple towers and tower height, community intrusion impacts and visual and aesthetic impacts.

- c. Documentation sufficient to demonstrate that the proposed telecommunication tower height and bulk are the minimum height and bulk necessary, to provide licensed telecommunication services to locations within the Town which the applicant is not able to serve with existing facilities in the project site area, shall be provided, including evidence that visual, aesthetic and community character intrusion impacts have been minimized to the greatest extent practicable.
- d. Demonstration that Shared Use is Impracticable: The Planning Board may issue a permit for a Major Wireless Communications Facility only when the applicant demonstrates that shared use of an existing structure or site is impractical. An applicant shall be required to present a report inventorying all existing structures within one-half (1/2) mile of the proposed site which are at an elevation which renders them potential sites. The report shall describe opportunities for shared use of these existing facilities as an alternative to a proposed new tower. The report shall demonstrate that the applicant used its best efforts to secure permission for shared use from the owner of each existing facility as well as documentation of the physical, technical, and/or financial reasons why shared usage is not practical in each case. The applicant's written request and the property owner's written responses for shared use shall be provided.
- e. Commitment for Future Shared Use: New wireless communications towers shall be designed to accommodate future shared demand for reception and transmitting facilities. The applicant shall submit to the Town Board and Planning Board an irrevocable letter of intent committing the owner of the proposed new tower and its successors in interest to permit shared uses of the proposed tower by other telecommunications providers in the future. This letter shall also be filed with the Building Inspector prior to issuance of a Building Permit. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the Site Plan approval following a hearing and opportunity to be heard. The letter shall commit the new tower owner and its successors in interest to the following:
 - i. To notify all carriers licensed to provide telecommunication services within the Town of its application and that it will entertain requests for co-location.
 - ii. To respond within ninety (90) days to a request for information from a potential shared use applicant.
 - iii. To use best efforts and negotiate in good faith concerning future requests for shared use of the tower by other telecommunications providers.
- f. A written certification shall be submitted, prepared by a qualified engineer and/or health physicist which calculates the maximum amount of non-ionizing electromagnetic radiation ("NIER") which will be emitted from the proposed wireless communications facility and demonstrates that any such emissions from the facility will be within the threshold levels adopted by the Federal Communications Commission, as of the day of application and as part of the certification required as part of Section VIII of this Law. The certification shall include a statement or explanation of how compliance was determined; an explanation as to what if any restrictions on access will be maintained to ensure compliance and a statement as to whether other significant transmitting sources are located at or near the transmitting site and, if so, whether their emissions were considered in determining compliance.

Town of Deerpark Zoning Law

- g. Siting on lands owned by the Town shall be permitted on any Town parcels, in the discretion of the Town Board.

F. Additional Required Information:

- 1. Procedural: The following procedural information shall be required:
 - a. Visual impact assessment:
 - i. A viewshed analysis in order to determine locations where the tower and appurtenant facilities may be visible.
 - ii. Graphic representations of before and after views from key viewpoints located inside and outside of the Town including, but not limited to, State highways and other major roads, State and local parks, other public lands, preserves and historic sites normally open to the public residential developments and from any other locations where the site is visible to a large number of visitors or travelers.
 - iii. Assessment of alternative tower designs and color schemes, as described in Subsection 2 below.
 - iv. Assessment of the visual impact of the tower base, guy wires, accessory buildings, and overhead utility lines from abutting properties and streets.
- 2. Tower Design: A report regarding alternative tower designs which includes lattice and monopole structures and other designs to minimize visual impacts. The Board may request a review of the tower design by a qualified Engineer in order to evaluate the need for, and the design of, any new tower and potential alternatives. All designs to be considered shall be required to include, at a minimum, the following characteristics:
 - a. Towers shall be designed to accommodate future shared use by other wireless communication providers.
 - b. Unless specifically required by other regulations, a tower shall have a finish (either painted or unpainted) that minimizes its degree of visual impact.
 - c. No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to company name, phone numbers, banners and streamers.
 - d. Any new tower shall be securely mounted to withstand damage from earthquakes and the wind and ice loads for the place of installation in accordance with New York State Uniform Fire Prevention and Building Code.
 - e. The height of any new tower shall be the minimum height necessary, considering shared use, to meet the minimum requirements of the Federal Communications Commission for coverage of the service area encompassing the Town of Deerpark.
- 3. Fully Engineering Site Plan:

A site plan showing, at a minimum, all existing roads, buildings, tower(s), guy wires and anchors, antennae, parking and landscaping, and shall include grading plans for new facilities and roads.

4. Engineer's Report:

A report by a New York State licensed professional engineer specializing in electrical engineering with expertise in radio communication facilities and, if a monopole or tower is required or the electrical engineer is not qualified to certify the structural soundness of the installation, a New York State licensed professional engineer specializing in structural engineering. The report shall, in addition to information required by this Law for site plans, contain the following information:

- a. Approximate location, size and height of all proposed and existing antennae and all appurtenant structures.
- b. The number, type, make, model, transmission power, maximum effective radiated power, manufacturer, and design of the antenna(e) proposed and the basis for the calculations of capacity.
- c. A description of the proposed antenna(e) and all related fixtures, structures, appurtenances and apparatus, including height above grade, materials, color, grounding, and lighting.
- d. The frequency, modulation, and class of service of radio equipment.
- e. Certification that the proposed antenna(e) will not cause interference with existing telecommunication devices.
- f. Elevation drawings depicting the front, side and rear of the property, illustrating the proposed antenna, mounting device and structure, if any, on which the antenna(e) is mounted.
- g. A map depicting and listing all existing sites in the Town and bordering communities containing transmitting antenna(e) used by the operator, owner or applicant.
- h. All applications, telecommunications and permits submitted to and issued by the Federal Aviation Administration.

The Planning Board may, in a proper case, waive one or more of the foregoing requirements set forth in this section and may require additional reports or evidence that it deems necessary to ensure the health, safety and welfare of the community are adequately addressed.

5. Inter-municipal Notification: In order to keep neighboring municipalities informed, and to facilitate the consideration of shared use of existing tall structures in a neighboring municipality, and to assist the continued development of telecommunications for emergency services, the applicant shall provide the following additional notice of application:

- a. Notification in writing to the municipal clerk of any adjoining municipality within one (1) miles of a proposed site or a greater distance if determined by the Board to be impacted by a proposed new telecommunication tower.

- b. Notification in writing by certified mail of all landowners within one-thousand (1,000) feet of the property line of the parcel on which the new tower is proposed.

G. Location, Lot Size and Setbacks

Lot size and setbacks: Any proposed wireless communications towers and its accessory structures shall be located on a single parcel and shall comply with setback requirements as identified below:

1. Distance from Public Facilities: In order to protect the health, safety and welfare of children who may be injured by falling ice or debris, all wireless communication towers shall be a distance of not less than three-hundred-fifty (350) feet from the nearest property line of a school, day-care center, camp, public park, playground, or public road.
2. Lot size of major wireless communication facilities sites shall be determined by the amount of land required to meet the setback requirements. If the land is to be leased, the entire area required shall be leased from a single parcel.
3. Wireless communications towers shall be located with a minimum setback from any property line equal to the height of the tower in any zoning district, except however, if the applicant can demonstrate that the fall zone for the structure can be safely accommodated on a smaller size parcel or with reduced setbacks to no less than the minimum bulk requirements in the underlying Zoning District, the Planning Board shall have the discretion to reduce the size accordingly. The applicant must demonstrate that there is adequate protection to adjoining properties from the dangers of falling ice or debris through either an easement or other safeguards. The Planning Board shall make findings of fact justifying a reduction and shall impose such additional conditions that the Board may deem appropriate to protect the health, safety and welfare. Accessory structures shall comply with the minimum setback requirements in the underlying Zoning District.
4. Additional setbacks may be required by the Planning Board to contain on-site substantially all ice fall or debris from tower failure and preserve the privacy of any adjoining residential and public properties.

H. Vegetative Screening and Fencing:

1. Landscaping: All telecommunication facilities shall provide landscaping as follows:
 - a. All telecommunications towers shall be located and designed to have the least possible adverse visual and aesthetic effect on the environment.
 - b. The area surrounding the installation, other than the area necessary to maintain a clear line of sight to the signal source, shall be landscaped and maintained with trees, shrubs, and ground cover to maximize screening and visual buffering. An existing natural vegetative buffer which meets or exceeds the above requirements may be substituted or enhanced for said requirements.
 - c. Screening and buffering utilizing trees of a height and density established by the Planning Board that will, over time, reduce visual impacts resulting from the installation of said facility shall be provided.
 - d. The outside of security fencing shall be screened with evergreen shrubs, tree, or climbing evergreen material on the fencing.

- e. The base of any telecommunication tower and any accessory structure shall be effectively screened using primarily vegetative screening, including a continuous evergreen screen planted in a natural setting and consisting of native plant species. Existing vegetation shall be preserved to the maximum extent practicable. Additional planting shall be required, as necessary, to screen and buffer all structures from nearby properties or important view sheds of scenic areas. All landscaping shall be properly maintained to ensure continued screening and buffering.
2. Security and Safety Fencing: Security and safety fencing shall be located around all telecommunication towers, equipment, and related facilities to restrict unauthorized access. Access to all structures shall be through a locked gate or principal building. Fencing shall be designed to minimize visual and aesthetic impacts and shall be equipped with appropriate anti-climbing devices. Failure to maintain said safety fencing in an appropriate manner shall be grounds for immediate revocation of all permits and certificates of use by the Building Inspector.

In addition:

- a. All telecommunication towers, antenna towers or monopoles, and other supporting structures shall be made inaccessible to non-authorized persons, particularly children, and shall be constructed or shielded in such a manner that they cannot be climbed.
 - b. All transmitter controls that could cause the transmitter to deviate from its authorized operating parameters shall be designed and installed in such a manner that they are readily accessible only to persons authorized by the licensee to operate or service them.
 - c. All transmitters used with in-building radiation systems shall be designed in such a manner that, in the event an unauthorized person does gain access, that person cannot cause the transmitter to deviate from its authorized operating parameters in such a way as to cause interference to other stations.
 - d. All transmitters (other than hand-carried or pack-carried mobile transmitters) and control points shall be equipped with a visual means of indicating when the control circuitry has been put in a condition that should cause the transmitter to radiate.
- I. Coloring and Marking: Unless otherwise required by the FAA or FCC, all telecommunication facilities, including antenna and telecommunication towers, shall be colored, camouflaged and/or shielded to blend with surrounding areas, providing such coloring, camouflage and/or shielding do not inhibit their effectiveness. The painting or marking of such facilities shall have a finish or coloring which will minimize visual and aesthetic impacts. Towers and all appendages shall generally have a galvanized finish and shall be painted gray or blue gray, or some other finish or color that is shown to be visually unobtrusive.
- J. Signals and Lights: No telecommunication tower, antenna tower or monopole shall include any signals, lights, or illumination unless required by the FAA or other applicable authority. The applicant shall provide evidence mandating any requirement for lighting. If lighting is required, said lighting shall be shown to cause the least disturbance to surrounding properties and views. Any lighting necessary for accessory structures or buildings shall be minimized and shall be properly shielded to prevent light emission and glare onto adjacent properties.

Town of Deerpark Zoning Law

- K. Signage: No signs, including advertising signs, shall be permitted on any antenna, telecommunication tower, antenna tower or monopole, or antenna support structure except as follows:
1. Signs specifically required by a Federal, State, or local agency.
 2. Each site shall include a sign containing the name of the owner and operator of any antenna present, including an emergency phone number. In addition, any door having access to a roof-mounted antenna and all entrances to the fenced enclosure shall be similarly signed.
 3. Any signage permitted above shall comply with the sign regulation of the Town Code.
- L. Undergrounding of Electrical Power and Noise Suppression:
- All electrical power supply to the on-site buildings and appurtenances supporting the tower antenna operations shall be installed underground. Noise suppression shall be utilized in the structural design and construction of the tower support buildings and appurtenances.
- M. Access and Parking:
1. Access: Adequate emergency and service access shall be provided. Maximum use of existing roads shall be provided, public or private, and shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting within the toe of the fill, the tops of cuts or no more than ten (10) feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
 2. Parking: Parking shall be provided on-site in an amount determined by the Board based upon recommendation from the applicant. No parking shall be located in any front yard.
- N. Minor Wireless Communication Facilities:
1. The shared use of existing tall structures (e.g. multi-story buildings, church steeples, farm silos, etc.) and placement upon existing approved towers shall be preferred to the construction of Major Wireless Communication Facilities, including new wireless communications towers and monopoles.
 2. Minor Wireless Communications Facilities shall be a principal permitted use in all zoning districts within the Town of Deerpark, subject to site plan review. The Planning Board shall, in such instances, be authorized to waive application requirements having no direct bearing on public health or safety and to modify applicable standards to accommodate such facilities.
- O. Requirements of All Approvals:
1. Removal: Should any tower cease to be used as a telecommunication facility, the owner or operator or then owner of the land on which the tower is located, shall be required to remove the same within one (1) year from the abandonment of use. Failure to do so shall authorize the Town of Deerpark to remove the facility and charge back the cost of removal to the foregoing parties. The Town of Deerpark may also file a municipal lien against the land to recover the costs of removal and attorney's fees.
 2. Operational Certificate: The owner or operator of any permitted telecommunication facility shall, within forty-five (45) days of initial operation, submit a report from a Professional Engineer certifying that the operation meets all applicable Town, State or Federal regulations and any conditions imposed. Failure to supply such a report shall be cause for immediate

revocation of permission to operate the same. The Board may also require periodic inspections and certifications to ensure continued performance.

3. **Reimbursement of Review Expenses:** All expenses incurred by the Town of Deerpark in the review of a telecommunication facility application shall be reimbursed by the applicant prior to final approval.

§ 230-30 Signs

- A. **Purpose:** It is the purpose of this section to help residents and visitors find what they need without difficulty; to improve the appearance of the Town; and to promote public safety by regulating the location, quality, construction, and maintenance of signs.
- B. **Definitions:** The following special definitions shall apply for purposes of this action:

Business or Institutional Identification Sign – A sign advertising a business or institution or identifying the business or profession of the owner or occupant of the property on which it is placed.

Commercial Directory Sign – A combination, on a single structure not exceeding eight (8) feet in height, of a sign identifying a business complex with other smaller uniform signs listing businesses on a property. Such signs shall replace freestanding signs which the advertisers would otherwise have rights to place on the property and use no more than twenty (20) square feet in surface area on each side to identify a complex or more than ten (10) square feet on each side to identify a specific business or service.

Contractor Sign – A sign of a builder or contractor which is erected and maintained while such persons are working on a property and is immediately removed when the work is complete).

Digital Billboard Sign – A sign utilizing digital technology for advertisement.

Freestanding Sign – A pole sign or ground sign.

Ground Sign – A sign rising from a ground foundation and not over eight (8) feet in height. The entire bottom of such sign is in contact with or in close proximity to the ground.

Incidental Commercial Sign – An advertising sign on which is located a simple message directed only to persons on the lot, such as a gas pump sign, credit card sign, or pricing sign placed in a window or on a door.

Off-premises Advertising Sign – A sign advertising a business or service located off the premises on which the sign is located.

Pole Sign – A sign supported by a pole(s) as a structure independent of any building. Pole signs are also separated from the ground by air.

Portable Sign – A sign not permanently attached to the ground or a structure and designed to be transported, including signs on wheels, A or T frames, or any other movable device or vehicle.

Real Estate Sign – A sign which advertises the availability of land, buildings or spaces within buildings as being for sale or rent.

Sign – Any device, façade, fixture, material, placard, or structure that uses any color, form, graphic, picture, illumination, symbol or writing to advertise, announce, declare or identify a purpose or entity or to communicate information of any kind to the public outside of a building, including neon or fluorescent painted building outlines and similar devices.

Sign Height – The height of any sign shall always refer to the height of the topmost portion of the sign from grade level, unless the foundation for such sign shall be positioned below the adjoining road grade, in which case the height shall be measured from the road grade.

Surface Area – The size of any sign, computed by multiplying its greatest length by its greatest height. Sign supports or foundations not exceeding three (3) feet in height and not bearing advertising material shall not be included. The surface area of signs with no definable edges (e.g. raised letter attached to a façade) shall be that area within the perimeter of a single line enclosing the advertising material. The reverse side of any sign may, however, be used without counting toward total sign area.

Traffic Direction Sign – An informational sign on which is located a simple traffic directive directed only to persons on the lot, such as a “no parking”, “loading in rear”, “one-way”, or “office this way” sign.

Wall Sign – A sign painted on or attached flush with a structural wall of a building, including window signs occupying more than fifty percent (50%) of the window or door surface and projecting signs not extending out from the structural wall surface more than eighteen (18) inches.

- C. Application: All signs shall meet the standards herein and on the attached Schedule of Sign Regulations. An application for a permit, for any sign requiring one, shall be made on a form supplied by the Building Inspector and submitted with fees required. Applications shall include drawings to scale depicting locations of the signs, methods of illumination, graphic design (including symbols, letters, materials, and colors) and visual message, text copy or content. Written consent of property owners shall also be provided. Applications not requiring a Planning Board finding shall be acted upon within fifteen (15) days of receipt. Applications submitted to the Planning Board shall be acted upon within thirty-one (31) days of receipt and such Board shall have the authority to approve, approved with modifications, or disapprove the application using the review criteria found in § 5.8.4 below. Findings shall be provided to the applicant and set forth in detail the reasons for the action.
- D. Sign Review Criteria: Signs shall be approved, approved with modifications, or disapproved based on the specific requirements contained herein and the following design criteria:
1. Signs should be a subordinate part of the streetscape.
 2. Signs should not interfere with views of other enterprises or residences.
 3. Whenever feasible, multiple signs should be combined to avoid clutter.
 4. Signs should be as close to the ground as possible and pole signs shall be discouraged in favor of ground signs wherever possible.
 5. Signs should blend with and not cover any architectural features and be sized and located in proportion to buildings.
 6. Vivid colors may be used but should not dominate a building or site.
 7. Signs should be located so as to not interfere in any way with the clear views required for public safety by highway travelers or pedestrians.
 8. Signs must not present an overhead danger or obstacle to persons below.
 9. Sign sizes should achieve ready visibility without becoming an unnecessary distraction from the highway view or detriment to the highway scenery.

10. Signs should never block the view of other signs.
 11. Signs should be easy to maintain and provide for wind resistance such that signs will not deteriorate or collapse after an extended period.
 12. Sign materials and design should blend with surrounding natural landscapes.
 13. Freestanding signs shall generally require landscaping around the sign base.
 14. Signs should generally not be placed on the roof or above the roof line of the building to which they are attached.
- E. General Regulations: The following regulations shall apply to all signs:
1. Signs shall be permitted only in connection with permitted uses or for the purposes of specifically directing travelers to businesses or services. This shall not, however, prohibit off-premises signs erected for these purposes.
 2. No part of any sign shall project above the top or beyond the ends of the wall surface on which it is located.
 3. Signs, other than office traffic signs, which exceed twenty-four (24) square feet in surface area shall be setback at least five (5) feet from the side lot line.
 4. Advertising signs shall not use the words “stop”, “danger”, or any other word, phrase or symbol in a manner which could be interpreted by a motorist as being a public safety warning or traffic sign.
 5. No light shall be permitted that by reason of intensity, color, location, movement or directions of its beam may interfere with public safety.
 6. No sign shall be attached to a tree, utility pole, or object not so intended, except for “no trespassing” signs placed on trees.
 7. Portable signs shall be subject to all freestanding sign regulations.
 8. No sign shall exceed in height one-half (1/2) of its distance from the highway right-of-way, notwithstanding any other height limitations.
 9. Traffic directional signs shall be exempt from these regulations.
 10. Signs shall be illuminated only by a steady, stationary (except for time and temperature reading) and shielded light source direct solely at the sign, without causing glare for motorists, pedestrians or neighboring premises.
 - k. Digital billboard signs with LED are only approved on a case-by-case basis in the IB Zone with a Special Use Permit.
- F. Temporary Signs: Temporary signs, including signs advertising yard sales or other non-commercial events may be allowed subject to the following:
1. Such signs shall be limited to twelve (12) square feet each in surface area and not be illuminated.
 2. Yard sales and comparable events shall be advertised with signs for no more than twenty-one (21) days per year.

3. Other temporary signs shall be erected no sooner than forty-five (45) days before the event they advertise and be removed within three (3) days after such event. A general permit encompassing all signs to be placed in regard to such event (excepting yard sales conducted no more than twice per calendar year) shall be required prior to the placement of any such signs. The applicant shall pay a fee as shall be established by the Town Board plus a Twenty-five Dollar (\$25) refundable deposit to cover the cost to timely removing said signs. Such signs shall:

1. Not be placed on any utility pole or public structure, except for “no trespassing” signs.
2. Be erected only with express consent of property owners.

G. Non-conforming Signs: Existing non-conforming signs may be repaired or reconstructed on the same site, but shall not be relocated or increased in size except as provided herein. Any non-conforming sign connected with a change of use, abandoned for sign purposes for more than ninety (90) days, damaged to the extent of fifty percent (50%) or more of the replacement cost value, or illegally established shall be immediately removed. In the event such a sign is not removed within thirty (30) days after written notice has been given to the owner of the sign or lessee of the land upon which the sign is located, the Town Board may institute appropriate civil or criminal actions to prevent the violation, abate the nuisance and assess the costs associated therewith to the violator by attachment to the real property tax bill for the parcel in question.

H. Sign Maintenance:

1. No owner or any sign or lessee or owner of any land upon which the sign is located shall permit such sign to become unsafe, unsightly, or in disrepair so as to endanger the public or to become a public nuisance as shall be determined by the Town Board. Also, any sign referencing a location, business, operation, service, or product which no longer exists or continues to offer service to the public shall be removed within six (6) months of such discontinuance, unless a waiver shall be granted by the Town Board, as the case may be.
2. In the event such a sign is not repaired or properly restored or removed within thirty (30) days after written notice has been given to the owner of the sign or lessee of the land upon which the sign is located, the governing body may institute appropriate civil or criminal actions to remedy the violation, abate the nuisance and assess the costs associated therewith to the violator by attachment to the real property tax bill for the parcel in question. The Town Board may also establish annual inspection and licensing requirements for the purpose of ensuring sign maintenance.

I. Real Estate Signs:

(Local Law 6 of 2005, filed with the Town Clerk on September 12, 2005)

1. Provisions Applicability to All Zoning Districts

One (1) real estate sign, not larger than three (3) feet by four (4) feet on one (1) lot, advertising the sale or letting of only the premises on which it is maintained, set back not less than five (5) feet from the paved edge of the roadway, shall be allowed; except when acreage, available for or in the process of subdivision, is advertised for sale or letting, one (1) real estate sign not larger than three (3) feet high and eight (8) feet long, or four (4) real estate signs three (3) feet high by four (4) feet long, will be permitted on each five hundred (500) feet to one thousand (1,000) feet of frontage, or two (2) real estate signs three (3) feet by four (4) feet on each five hundred (500) or less feet of road frontage. Said three (3) feet shall be construed to mean the height of the sign itself and not the height from the ground or curb line. This regulation shall apply to all zoning districts.

2. Prohibited Locations

No sign shall be erected, placed or maintained within the right-of-way lines of any public street, sidewalk or public right-of-way. Any sign violating this subsection may be removed by the Building Inspector/Code Enforcement Officer or any other Town employee or agent duly designated by the Supervisor without prior notice to the owner. Such removal shall include the sign structure.

3. Penalties

Any person, corporation, business, agency, or entity who shall be found to have violated a provision of this Chapter or Section shall be guilty of a violation and shall be subject to a fine not less than \$250 nor more than \$500 for each offense.

J. Billboards: A sign standing on the ground and usually, but not necessarily, supported from the ground by one or more poles, posts or similar uprights, with or without braces, and advertising products or uses not made, sold, used, or served on the premises displaying such sign.

1. A billboard shall only be placed on lots which meet the minimum lot and building standards applicable to the district in which it is to be located, and only in the IB Zone.
2. A billboard shall be located no less than 10 feet from any property line.
3. A billboard shall be no more than 60 feet in height above finished grade. Billboards which exceed 14 feet in height shall be designed and constructed to withstand winds of one-hundred (100) miles per hour, and such shall be certified to by a Professional Engineer or Registered Architect licensed to practice in the State of New York.
4. No sign face shall have a vertical dimension in excess of 14 feet or exceed 700 square feet in total area.
5. If a lot has the ability to accommodate more than one (1) billboard, the minimum distance between such billboards shall be 200 feet.
6. All double-faced billboards shall be Special Permit Uses and uses subject to plan approval by the Planning Board in accordance with the provisions herein.
7. If a billboard faces Interstate Route 84, approval shall be obtained from the Senior Right-of-Way Agent in accordance with the New York State Sign Control Program.
8. Billboards are to be in accordance with Part 150 of the NYSDOT standards.
9. Billboards may only be indirectly illuminated, except that digital billboards may be allowed by the Planning Board. These signs may be Commercial Electronic Variable Message Signs (CEVMS) or Trivision Type billboards.
 - a. Minimum duration of message shall be six (6) seconds.
 - b. Maximum brightness shall be 5,000 cd/m² daytime, and 280 cd/m² night time.
 - c. CEVMS may not be located in such a manner as to obstruct, obscure, or otherwise physically interfere with the effectiveness of an official traffic sign, signal or devise or with the driver's view of approaching, merging or intersecting traffic or interfere with the driver's operation of a motor vehicle as determined by the Town of Deerpark Planning Board.

- d. The Town may place, at no cost, public service messages up to 5% of the yearly sign time for each sign.

SEE SCHEDULE OF SIGN REGULATIONS AS THE END OF THIS CHAPTER

§ 230-31 Cluster Development (Conservation Subdivision)

- A. The Town of Deerpark Planning Board shall be authorized, pursuant to § 278 of the Town Law and simultaneously with the approval of the Development Plans under the Town of Deerpark Subdivision Regulations, to modify applicable provisions of this Zoning Law so as to accommodate conservation subdivision projects. Also known as “cluster development”, conservation subdivisions offer flexibility in design, facilitate the economical provision of streets and utilities and preserve open space. They shall be allowed anywhere within the Town of Deerpark and be processed pursuant to subdivision Development Plan approval procedures.
- B. The Planning Board may require conservation/cluster subdivision, as a form of development, in those instances where conventional subdivisions or residential developments would cause significant loss of open space or otherwise result in significant negative environmental impacts.
- C. Conservation/cluster subdivisions provide for one-family or two-family dwelling units wherein dwelling units are grouped in sections in order to maximize the amount of common open space and to preserve the natural settings. Proposed developments shall be processed in the same manner as major subdivisions and in accord with the standards below.
- D. Conservation/cluster subdivisions shall include at least five (5) lots and the Planning Board shall have the authority to require an alternative Sketch Development Plan, for any subdivision of ten (10) lots or more, depicting how the property might be developed using this technique. If this alternative Sketch Development Plan is determined to provide a superior design in accord with the purposes of this Law and the same density can be achieved the Planning Board may then require use of this technique.
- E. The maximum permitted number of dwelling units shall be determined by deducting from the total tract area:
 - 1. All areas within the rights-of-way of an existing or proposed street.
 - 2. All areas occupied by public utility easements.
 - 3. All wetlands, floodplains, slopes of 15% or more, water bodies and other undevelopable areas.

The net figure shall then be divided by the minimum lot size applicable and rounded to the nearest whole number of dwelling units permitted.
- F. Only one-family detached and two-family dwellings shall be employed in this concept. All other dwelling types shall be considered multi-family dwellings.
- G. Development standards for lot size, lot width, and lot depth may be reduced, provided no dwelling structure (one-family or two-family) is located on less than 43,560 square feet of land where on-site sewer and water facilities are to be provided, or 10,000 square feet of land where community wastewater and water facilities are to be provided; and further provided the total density (in individual dwelling units) for the tract shall not exceed that which would result from a conventional subdivision plan designed in accord with this Law plus a bonus of up to 20%, as determined from the basic Sketch Plan submission. Yard requirements may also be reduced, but in no instance to less than twenty (20) feet.
- H. No individual parcel of common open space shall be less than one (1) acre except as to roadway median strips, traffic islands, walkways, trails, courtyards, play areas, recreation facilities, drainageways leading directly to streams, historic sites, or unique natural features requiring common ownership protection. No less than 50% of the total land area of the conservation

subdivision shall be dedicated to permanent open space and at least 25% of such open space shall be usable for active recreational activities by residents of the subdivision and not include water bodies, wetlands, floodplains, slopes over 15% in grade, or other undevelopable areas.

- I. The open space resulting from conservation subdivision design shall be permanently protected through a conservation easement titled to a property owner's association (POA), land conservancy, municipality or similar entity, prior to the sale of any lots or dwelling units by the subdivision. Membership in any POA shall be mandatory for each property owner within the subdivision and successive owners with voting of one vote per lot or unit and the subdivider's control, therefore, passing to the individual lot/unit owners on sale of the majority of the lots or units. All restrictions on the ownership, use and maintenance of common open space shall be permanent and the POA shall be responsible for liability insurance, local taxes, and maintenance of all open space, recreational facilities and other commonly held amenities. Each property owner must be required to pay their proportionate share of the POA's cost and the POA must be able to file liens on the lot/unit owner's property if levied assessments are not paid. The POA must also have the ability to adjust the assessment to meet changing needs.

§ 230-32 Upper Delaware River Provisions

Areas within the boundaries of the RRC Recreational River Corridor District or the Upper Delaware National Scenic and Recreational River shall be subject to the following requirements:

- A. Potential impacts on the River from stormwater runoff and waste disposal shall be assessed in connection with any Special Use proposed within the corridor.
- B. Junkyards and salvage operations, airports, solid waste disposal sites, and manufacturing shall not be permitted in the RRC Recreational River Corridor District.
- C. New outdoor recreation facilities shall be limited to those which are designed for relatively short use periods and do not provide other than rudimentary visitor services or include infrastructure development other than as required to meet State health codes. Major commercial recreational development which could have significant impacts on land and water resource values, including but not limited to amusement parks, drive-in theaters, auto race tracks, sports arenas, etc. shall not be permitted in the corridor.
- D. Where permitted, small hotels and motels (those with 12 or fewer rooms) within the corridor shall be located adjacent to arterial roads and designed to be compatible with the natural and scenic characteristics of the River corridor.
- E. All Special Uses shall be subject to a determination by the Planning Board that the proposed activity will conform with the recommendations of the Upper Delaware River Management Plan.
- F. All lots shall be a minimum of two (2) acres in lot area.
- G. No structure shall be constructed on a lot with a slope in excess of fifteen (15%) grade without site plan approval from the Planning Board, and no more than ten (10%) percent of the area of any lot with a slope in excess of fifteen (15%) percent shall be covered with an impervious surface or be stripped of vegetation at any one time. Slopes over fifteen (15%) percent may be used for forestry or agricultural purposes.
- H. A maximum of twenty (20%) percent of any lot shall be cleared of vegetation for building purposes where the natural slope is less than ten (10%) percent. No more than fifteen (15%) percent of the lot area shall be cleared for building purposes where the natural slope exceeds ten (10%) percent.

Town of Deerpark Zoning Law

- I. No wastewater treatment system shall be located closer than one hundred (100) feet of the base flood elevation of the Bashakill, Neversink, Mongaup, or Delaware Rivers.

§ 230-33 Animal Husbandry, Animal Hospitals and Commercial Agriculture

The following additional standards must be met in conducting animal husbandry and commercial agricultural operations:

- A. No offensive odor or dust producing substance or any use producing incessant odor or dust may be permitted within one-hundred (100) feet of any property line.
- B. In districts where animal husbandry is allowed a Special Use permit is necessary where animal husbandry is in excess of one (1) livestock unit per acre of land. A livestock unit shall, for purposes for this Law, be one cow, two calves, two horses, two ponies, two pigs, two goats, two sheep, one-hundred fowl or fifty rabbits. Livestock units for unspecified animals shall be determined by the Planning Board on a case by case basis, using these numbers as a guide.
- C. Any animal husbandry use shall require a minimum of three (3) acres and minimum front, rear, and side yards of fifty (50) feet each.
- D. Boarding or livery stables, riding academies and breeding farms shall require a minimum of ten (10) acres and minimum front, side, and rear yards of two-hundred (200) feet. Within the Recreational River Corridor District, such uses shall conform to the River Management Plan and shall be subject to Special Use review.
- E. Animal hospitals, veterinary offices, commercial or not-for-profit kennels shall be prohibited in the Recreational River Corridor District; and in those districts where permitted shall be subject to the Town of Deerpark Dog Control Law (Local Law No. 13 of 2000, as amended) and the following standards:
 - 1. The minimum lot size for an animal hospital and a veterinary office shall be two (2) acres.
 - 2. The minimum lot size for a commercial or a not-for-profit dog kennel (a structure used for harboring 5 or more dogs or cats with or without attendant commercial services such as grooming, breeding, or veterinary care) shall be ten (10) acres.
 - 3. No kennel, runway, or exercise pen shall be located within two-hundred (200) feet to any lot or street line.
 - 4. No building or part thereof shall be erected nearer than fifty (50) feet of any lot line.
 - 5. Animals shall be kept within a totally enclosed and suitably ventilated building between the hours of sundown and sunrise.
 - 6. The keeping or boarding of any dogs by a veterinarian shall conform to the requirements for a commercial kennel.

§ 230-34 Camps and Conference Centers

- A. Camps shall provide a minimum of 10,000 square feet per cabin site and the same for each principal building.
- B. No tent, activity area, or recreational facility shall be located nearer than one-hundred (100) feet from any public road and one-hundred (100) feet from any adjoining property line.

Town of Deerpark Zoning Law

- C. Buildings and sleeping quarters (except tents) shall be setback thirty (30) feet distance from each other; and tents shall be set a minimum of ten (10) feet apart.
- D. Accessory recreational facilities shall be setback two-hundred (200) feet from all lot lines and shall be effectively screened along lot lines as required by the Planning Board.
- E. If floodlighting is used, exterior lighting shall be restricted to that essential for the safety and convenience of the users of the premises. The source of illumination shall be shielded from the view of surrounding streets and lots.
- F. The Planning Board may permit the use of outdoor public address systems, provided that no more sound shall carry beyond the limits of the camp site than would be inherent in the ordinary residential use of the property and in accordance with the noise ordinance.
- G. All provisions of the Sanitary Code or such other regulations of the County Health Department pertaining to camps and their sanitary facilities must be met.

§ 230-35 Hotels, Motels and Resorts

Hotel, motel and resort establishments, where permitted, shall require site plan review and approval by the Planning Board and be subject to the following standards:

- A. A site to be used for a motel, hotel, or resort establishment shall include an office and lobby and may include accessory uses as follows: restaurants, coffee shop or cafeteria providing food and drink, amusement and sport facilities such as a swimming pool, children's playground, tennis, or other game sports, and game or recreational rooms.
- B. Individual hotel, motel, and resort rooms shall not contain kitchen facilities of any nature, and shall not be used as apartments for non-transient tenants or other single-room occupancy residential uses.
- C. No hotel, motel, or resort use shall be permitted which is intended to accommodate activities of a health care, rehabilitative or medical nature. Such facilities shall be considered separate uses and limited to those zoning districts where specifically permitted by listing on the Schedule of District Regulations.
- D. A hotel is a building containing rooms used for overnight accommodations of those in transit, or for a short-term or extended business stays, or short term person stays. Single-room occupancy residential projects will not be considered to be hotels but shall be considered to be multi-family dwellings under the provisions of the Zoning Law. A hotel may have facilities that provide meals and other services within the main building or in an accessory building located on the hotel site.

§ 230-36 Adult Uses

- A. Findings: There is presently in Orange County a substantial growth in the number of adult entertainment uses and an increasing trend toward the concentration of adult entertainment establishments. Based upon recent studies evaluating the nature and extent of adverse secondary effects caused by adult uses in residential and commercial areas, including a 1996 study by the City of Newburgh, a 1994 study by the City of New York, and a 1980 study by the City of Islip, the Town Board hereby finds that adult uses have negative secondary impacts such as a deterioration of community character and quality of life, depreciation of property values, increase in crime rates, and the blighting or downgrading of surrounding neighborhoods and commercial uses.

Town of Deerpark Zoning Law

B. Purpose: In the development and execution of this Section, it is recognized that there are some adult uses which, because of their very nature, are recognized as having serious objectionable characteristics. The objectionable characteristics of these uses are further heightened by the concentration in any one area, thereby having deleterious effects on adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of surrounding neighborhoods or land uses, increase crime or police calls, contribute to the spread of prostitution and AIDS, increase the quantity of transients in residential and commercial areas, cause a deterioration in the quality of life in residential neighborhoods, increase the accessibility of adult oriented material and entertainment to minors, and encourage residents and businesses to locate elsewhere.

C. Definitions: As used in this Law, the following terms shall have the meanings indicated:

1. Adult Use – A use of a building or property for a business which as adult materials as a significant portion of its stock-in-trade or involves the sale, lease, trade, gift, or display of drug paraphernalia. Adult materials include any literature, book, magazine, pamphlet, newspaper, paper, comic book, drawing, computer or other image, motion picture, sound recording, article, instrument, display, or any other written or recorded material which depicts or describes: (a) any nudity; or (b) the specific sexual activities listed herein. The Town shall also rely upon the general meaning given to these two terms by the State of New York and in the various decisions of the U. S. Supreme Court referenced herein, should further clarification be required.

For purposes of this Law, adult oriented businesses shall also mean any nightclub, bar, tavern, restaurant, eating and drinking establishment, arcade, theater, motel, hotel, or any other establishment that regularly features, for economic gain or other consideration, entertainment in any form which is characterized by nudity or the depiction or display of specified sexual activities. This shall not exempt such a business from any requirements of this Law or limitations on public displays of personal nudity. Nothing in this definition shall be construed to incorporate breast-feeding, single-sex rest rooms and showers, or items and displays of recognized artistic merit as previously interpreted by the U. S. Supreme Court or activities in a private residence by the occupants thereof.

2. Nudity – The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

3. Specified Sexual Activities:

- a. Human genitals in a state of sexual stimulation or arousal.
- b. Acts of human masturbation, sexual intercourse, or sodomy.
- c. Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.

4. Specified Anatomical Areas:

1. Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately about the top of the areola.
2. Human male genitals in a discernible turgid state even if completely and opaquely covered.

D. Separation Requirements Applicable to Adult Uses: Adult uses shall be limited to existing I-I Industrial Districts. They shall be considered Special Uses subject to Site Plan review. Because

adult uses can lend themselves to ancillary unlawful and unhealthy activities, they shall also be separated from other uses that could be severely impacted by their presence or that, in combination with the adult uses, accentuate the negative impacts on the area. These distances shall be measured in a straight line, without regard to intervening obstacles, from the nearest portion of the structure incorporating any aspect of the adult use to the nearest property line of the premises incorporating any of the above listed uses.

1. No adult use shall be located within a two-hundred (200) foot radius of any other residential or commercial zoning district or another adult use.
 2. No adult use shall be located within a one-thousand (1000) foot radius of the property of any residence, residential facility, institution, health facility, child care center, church, synagogue, other place of religious worship, school, public or semi-public use, public park or recreation facility, youth oriented center, playground or playing field, cemetery, or any establishment that sell alcoholic beverages.
- E. Exterior Display Prohibited: No adult use shall be conducted in any manner that allows the observation of any material depicting, describing, or related to specified sexual anatomical areas from any public way. This provision shall apply to any display, decoration, sign, show window, or other opening.
- F. Signage: Adult use signage shall be limited to one (1) approved ground sign not to exceed a surface area of thirty-six (36) square feet for both sides combined and requires Planning Board approval of sign content.
- G. Non-Conforming Buildings: No non-conforming building or lot shall be used for an adult use.
- H. Activities: Because they are known to encourage prostitution, increase sexual assaults and attract criminal activity the following activities shall not be permitted in any adult oriented or other business or any other public place within the Town of Deerpark:
1. Public appearance by a person knowingly or intentionally engaged in specified sexual activities.
 2. The knowing and intentional public appearance of a person in a state of nudity.
 3. Touching of patrons or the performance by any entertainer in an adult use facility within six (6) feet of the nearest patron.
 4. Sale of alcoholic beverages.
- I. Loudspeakers: No loudspeaker or similar audio equipment used to describe or discuss specified anatomical areas or specified sexual activities shall be audible beyond the exterior of the structure in which it is located.

§ 230-37 Vehicle Junkyard and Wrecking Facilities

- A. Purposes: These regulations are enacted for the purpose of establishing minimum health and safety standards for junkyards in the Town of Deerpark as well as controlling their location. They are enacted pursuant to the authority granted towns by § 136 of the General Municipal Law and § 136.1 of the Town Law.
- B. Scope: These regulations shall apply to all junkyards now or existing or hereafter proposed in the Town of Deerpark. No junkyard shall be created except in conformance with the standards herein, and all junkyards shall be required to conform to said standards or be removed at the owner's

Town of Deerpark Zoning Law

expense. Existing junkyards may be transferred to a new owner subject to a new license application.

- C. Exemptions: The following land uses shall be exempt from these requirements provided they are not maintained in the manner of a junkyard and do not include a junkyard operation:
1. Storage areas for officially recognized and operable antique or classic automobiles or other operable special purpose vehicles.
 2. Agricultural equipment which is utilized as part of an active farming operation or contractor's construction equipment which is part of an active contracting business.
 3. Automobile repair businesses or automobile, vehicle, and equipment sales operations managed by State licensed dealers.
- D. Definition: The term "junkyard" shall mean:
1. An area of land, with or without buildings, used for storage, outside a completely enclosed building, of used materials, including but not limited to wastepaper, rags, metal, glass, building materials, house furnishings, machines, wire, pipe, mobile homes, recreational vehicles, appliances, automotive vehicles or parts thereof, with or without the dismantling, processing, salvage, sale or other disposition of the same.
 2. Any place where two (2) or more old, secondhand, abandoned, partially disassembled, dilapidated or unlicensed vehicles or parts of vehicles, no longer intended or in condition for legal operation on the public highways, are stored outside for any purpose for a period of six (6) months or more. The Town of Deerpark Building Inspector(s) shall determine when a vehicle or part thereof shall meet these conditions and it shall be the burden of the landowner in such instance to demonstrate conclusively, within a period of seven (7) days after notice, that a vehicle is legally operable at the present time if he or she shall disagree with the Building Inspector's determination.
 3. Ancillary businesses located on a junkyard lot or lots that are part of the same site and site plan if one is a matter of record, including but not limited to vehicle and equipment sales, rental operations, repair operations, other sales activities, services and processing operations; whether or not directly related to the primary junkyard function.
- E. License Required: No person, partnership, association or corporation, being the owner or occupant of land within the Town of Deerpark, shall use or allow the use of such land for a junkyard unless a license has been obtained and maintained as herein provided, which license shall be applied for concurrently with application for site plan review and Special Use approval hereunder. The Building Inspector shall issue a license within ten (10) days after approval of the application by the Town Planning Board pursuant to these criteria. Said license shall be effective from the date of issuance until surrendered by the licensee or revoked by the Building Inspector and shall be inspected annually by the Building Inspector and a five-year renewal with approval by the Town Board as to continued compliance with these standards every five (5) years. The Town Board may issue a junkyard license as temporary, conditional, or any period length under five (5) years that they consider appropriate. No license shall be issued until the Building Inspector has received:
1. A written application from the applicant on the form provided by the Town Building Inspector.
 2. The required fee as herein provided. Such fees shall be set by resolution of the Town Board.

Town of Deerpark Zoning Law

- F. **Transfer of License:** The license may be transferred to a new owner of a junkyard provided all of the requirements of this Law pertaining to the existing junkyard are met and a new application is submitted.
- G. **Disapprovals:** Any disapproval shall be in writing and include the reasons therefore. The Building Inspector shall not issue a license in any instance where the Planning Board has not approved the site plan and given special use approval.
- H. **Right to Enter and Inspect:** The Building Inspector shall enforce all of the provisions of this Law and shall have the right, at all reasonable times, to enter and inspect any junkyard. The Town Board shall specify the frequency of such inspection, but no less than four (4) times per year, and set fees by resolution to cover costs involved.
- I. **Orders to Correct:** If the Building Inspector finds that a junkyard for which a license has been issued, is not being operated in accordance with the provisions of this Law, he may serve, personally or by certified mail to the holder of the license, a written order which will require the holder of the license to correct the conditions specified in such order within ten (10) days after the service of such order or a longer time specified by the Building Inspector.
- J. **Suspension of License:** If the holder of such license shall refuse or fail to correct the condition or conditions specified in such order within ten (10) days, or at another time required specifically, after the service of such order, the Building Inspector may suspend such license and the holder of the license shall thereupon terminate the operation of such junkyard.
- K. **Expiration of License:** Any license which is not used for the purpose intended within twelve (12) months of the date of issuance shall automatically expire and the junkyard shall be removed in its entirety.
- L. **Standards Applicable to New Junkyards:** All new junkyards shall conform to the following standards:
1. No part of any junkyard shall be located closer than one-hundred (100) feet to an existing public right-of-way or adjoining property line, or one-thousand (1000) feet to a church, school, health care facility, public building, or place of public assembly.
 2. New junkyards shall, moreover, be permitted only in the Industrial (I-I) District.
 3. All new junkyards must erect and maintain an eight (8) foot fence or dense natural screening along the boundaries of the property adequate to discourage the entrance of children or others into the area and to contain, within such fence, all materials in which the owner or operator deals. Such fence or screening shall also substantially screen the junkyard from public view and otherwise comply with the requirements of § 136 of the General Municipal Law.
 4. No junkyard shall be used as a dumping area for refuse or as a place for the burning or disposal of trash.
 5. All dismantling operations shall take place inside an enclosed structure or screened in area and any parts of vehicles or equipment shall similarly be stored inside an enclosed structure. All vehicles awaiting dismantling or retained for sale or use intact shall be buffered as required in this section from the junkyard as a whole.
 6. The Planning Board, in acting upon the Special Use application for any new junkyard, shall consider aesthetics and the impact on surrounding property consistent with the demands of § 136-7 and 8 of the General Municipal Law.
 7. All waste oils and similar waste products shall be stored and/or disposed of consistent with local and State requirements and best industry practices.

- M. Standards Applicable to Existing Junkyards: All existing junkyards shall conform to the following standards to be administered by the Town Board based on the inspection and report of the Building Inspector as to compliance with the standards of this Law:
1. Existing non-conforming junkyards shall, within a period of one (1) year following the effective date of this Law, be removed unless a license shall have been obtained for continued operation and the facility has been made to conform to the regulations provided below.
 2. Applications for licenses to continue operating existing non-conforming junkyards shall, unless the owners thereof have indicated in writing their intention to discontinue operations as provided above, be made within one (1) year following the effective date of this Law. All licenses shall, thereafter, be renewed by July 1 for every five (5) calendar years.
 3. Applications for licenses to continue operation of existing non-conforming junkyards shall include a site plan depicting the existing operation and any planned improvements as may be required by this Law.
 4. All existing junkyards shall include an eight (8) foot high fence along the side and rear boundaries of the property adequate to discourage the entrance of children or other into the area and to contain, within such fence, all materials in which the owner or operator deals. Fencing and screening shall fully comply with all requirements applicable to existing junkyards. Yard requirements applicable to new junkyards shall not be further violated.
 5. All fencing must be approved by the Town Board and produce a screen through which one generally cannot see. Various materials, including evergreen screening, may be used. The Town Board shall also take measures, such as securing injunctive relief, to ensure maintenance of such fencing or screening.
 6. The license application shall include other information as may be required to determine compliance with these regulations. The Town Board, in acting upon the application, shall consider the following:
 - a. Impacts of the use on the enjoyment and use of adjoining properties and the community.
 - b. The effectiveness of screening available or to be provided, visibility from the highway or adjacent properties and the extent to which the operator's plans address various health, safety and aesthetic concerns.
 - c. The extent to which dismantling operations can or do take place inside an enclosed structure and whether or not all parts of vehicles or equipment are similarly stored inside an enclosed structure. The Town Board has the right to approve temporary or conditional approval as it sees appropriate.
- N. Existing junkyards shall not be expanded except in conformance with the regulations. Any person or persons proposing to establish or expand a junkyard in the Town of Deerpark shall prepare site plans of the same to be submitted to the Planning Board under Special Use/Site Plan review procedures. The Planning Board can approve or deny any such application as per their consideration of M(6)(a-c) above. The Planning Board can consider waiving area and distance requirements for expansion of existing junkyards. Continuous screening will be required as per the Planning Board.
- O. Junkyard Application Standards: All applications to operate junkyards in the Town of Deerpark shall include criminal records with respect to the applicant(s), including any owner with a 5% or more ownership. Should such criminal records reveal convictions for larceny or receiving stolen

property, such application shall be denied. This procedure shall apply to both original license and transfer applications. Applications shall in other respects comply with Special Use and Site Plan Review procedures.

P. Scrap Processor:

1. License for Scrape Processing (Annual): It shall be unlawful for any person, association, partnership or corporation to engage in business as a scrap processor unless such scrap processor shall have complied with the provisions of this article and obtained a license to do so from the Supervisor of the Town in which such place of business is located, or from the licensing authority of any such municipality; for which license shall be paid such Supervisor or licensing authority for the use of such Town the sum of seventy-five (\$75.00) dollars if such place or business is the principal place of business of such scrap processor in this State, otherwise the sum of fifty (\$50.00) dollars, which license shall expire on June thirtieth of each year.
2. Records:
 - a. Such scrap processor shall record (i) each purchase of any pig or pigs of metal, bronze or brass castings or parts thereof, sprues or gates of parts thereof, utility wire or brass car journals, or of metal beer kegs, and (ii) each purchase of iron, steel and/or nonferrous scrap for a price of fifty (\$50.00) dollars or more, and preserve such record for a period of three years; which record shall show the date of purchase, name of seller, his residence address by street, number, city, village or town, the driver's license number or information from a government issued photographic identification card, if any, of such person, or by such description as will reasonably locate the seller, the type and quantity of such purchase; and the scrap processor shall cause such record to be signed by the seller or his agent. It shall be unlawful for any seller to refuse to furnish such information or to furnish incorrect or incomplete information. Such scrap processor shall also make and retain a copy of the government issued photographic identification card used to verify the identity of the person from whom the scrap metal was purchased and shall retain this copy in a separate book, register or electronic archive for two years from the date of purchase.
 - b. Such records shall be available for inspection by the police department of the state or the municipality in which the establishment is located.
3. Penalty:
 - a. Each violation of this article by a scrap processor shall be a violation subject to a fine of not more than two hundred (\$200.00) dollars, unless such violation shall be willful, in which event it shall be a misdemeanor except, however the scrap processor shall not be liable for any violation of this article by the seller, his agent, or a purported seller or agent.
 - b. Each violation of this article by a seller or his agent shall be a misdemeanor.

§ 230-38 Continuing Care Facilities

- A. Purposes: The purpose of this section is to permit continuing care facilities as Special Uses within Hamlet Mixed/Use (HM-U) Districts. This law is intended, under the authority given to the Town of Deerpark by Section 10 of the New York State Municipal Home Rule Law, to supersede the provisions of the New York State Town Law as follows:

1. Sections 274-a, 274-b, and 276 of the Town Law are superseded to combine these requirements into a single set of provisions with respect to continuing care retirement communities, where special use, site plan review, and subdivision review and approval take place concurrently and both preliminary and final plans are required as provided under Section 276.
2. Sections 274-a and 274-b of the Town Law are superseded to make the established time periods for hearings and actions on plans coincide with those for subdivision plats under Section 276, excepting that Section 276.5(h) shall also be superseded to change the time to submit a final plat following preliminary plat approval from six (6) months to five (5) years, with extensions subject to approval from the Planning Board to permit phased development.
3. Section 276.7(c) is superseded to change the duration of a conditionally approved final plat from one-hundred-eight (180) days, with two ninety (90) day extension, to five (5) years following preliminary plat approval with extensions subject to approval from the Planning Board to permit phased development.

B. Special Definitions:

Continuing Care Facility – A residential development, facility or facilities established with the primary purpose of providing individual of sixty (60) years or more in age, or households where the head of household is sixty (60) years or more in age, comprehensive, cohesive living arrangement oriented toward the enhancement of the quality of life and which, pursuant to the terms of a continuing care contract, offers independent living units and board combined with a range of health care and social services subject to the terms of the contract. A continuing care facility may include a continuing care retirement community, as provided under the laws of the State of New York or a combination of the following:

Assisted Living – A single facility offering coordinated array of supportive personal and health services, available 24 hours per day, to protect residents of sixty (60) years or more in age who have temporary or periodic difficulties with one or more essential activities of daily living, such as feeding, bathing, dressing, or mobility. This definition includes adult care facilities licensed by the State of New York.

Enriched Housing – An adult care facility established and operated for the purpose of providing long-term residential care to five (5) or more adults, primarily persons sixty (6) years of age or older, in community-integrated settings resembling independent housing units. Such program shall provide or arrange the provision of room, and provide board, housekeeping, personal care, and supervision.

Nursing Facility – Food, shelter and 24 hour nursing and medical care provided to chronic or convalescent patients, including intermediate, skilled and sub-acute levels of such care and customary accessory uses such as dining rooms, bathing areas, common areas, offices, clinics, therapy areas, medical facilities, and other space necessary to provide these services.

C. Standards:

1. A continuing care facility may, in addition to the facilities required below, include:
 - a. One-bedroom apartments with a minimum of five-hundred (500) square feet and a maximum of one-thousand-two-hundred (1200) square feet in floor area. The one-bedroom apartment shall include, but not be limited to, a bathroom, bedroom, dining/living room, kitchen, and closet space. Each one-bedroom apartment shall have its own separate heating and air conditioning units.

- b. Two-bedroom apartments with a minimum of nine-hundred (900) square feet and a maximum of one-thousand-three hundred-fifty (1350) square feet in floor area. The two-bedroom apartments shall include a bathroom, two (2) bedrooms, dining/living area, kitchen, and closet space. Each two-bedroom apartment shall have its own separate heating and air conditioning units.
 - c. Concierge services, housekeeping, laundry, banking, dry cleaning (pick-up and delivery), 24 hour security service, and temporary controlled indoor courtyard.
 - d. Recreation, cultural, and medical facilities for the sole use of residents of the community and their guests, which may include dining rooms, a library, arts and crafts studios, a business/computer center, pool, bistro, hairdressing facilities, lounges, a theater, inside convenience store, indoor and outdoor recreational facilities, a fitness or wellness center, courtyards, pavilions, picnic facilities, and other customary accessory uses. Nothing herein, however, shall restrict the use of continuing care facilities for public purposes such as community events, use as a local library or recreation activities of a non-commercial nature.
2. Area, Yard, and Building Requirements: No building, structure, or land shall be used or erected, altered, enlarged or maintained except for continuing care facilities within the area which is in accordance with a preliminary site plan and/or subdivision plan approved by the Planning Board. Such site development plan shall meet at least the following minimum requirements:
- a. Minimum Area: The minimum area for a continuing care facility shall be twenty (20) acres, provided that an area of less than twenty (20) acres may be added to an existing continuing care facility if contiguous and otherwise in compliance with these regulations.
 - b. Residential Density: Gross density for a continuing care facility shall not exceed eight (8) dwelling units per acre of buildable land for independent living units. Additionally, no less than two (2) and nor more than three (3) beds each of assisted living and long-term care shall be provided for each ten (10) independent living dwelling units permitted on-site, provided the total number of dwelling units and beds for the continuing care facility does not exceed twelve (12) units or beds per acre of buildable land. No more than 40% of slopes over 25% in grade, 10% of floodplain areas, and 10% of wetland areas shall be included in calculating buildable for purposes of density calculations.
 - c. Impervious Coverage: No more than fifty percent (50%) of the gross area shall be covered by impervious surfaces.
 - d. Maximum Building Height: Three (3) stories or thirty-five (35) feet, except mechanicals, elevator shafts, and the like. Elevators shall be required for all structures of two (2) or more stories in height.
 - e. Fire Protection and Ambulance Services: No application for a continuing care facility shall be approved unless and until the appropriate officer of the applicable Town fire district(s) shall have: (a) reviewed the plans and the site; (b) determined the district firefighting equipment can provide adequate coverage for the community; and (c) found that there are no major obstacles in the design or layout of the facility to providing fire protection. The applicant shall document to the fire district and the Planning Board, that there is a water supply, storage, and distribution system with sufficient capacity to meet the firefighting needs associated with the development in accordance with ISO or other guidelines established by the Planning Board. These facilities shall be located on the site and convenient for easy access. A fire lane of no less than twelve

(12) feet in width shall be provided surrounding all assisted living, independent living, and long-term care buildings.

If the fire district, or any other department of the Town of Deerpark, lacks the specific equipment, facilities, or training needed to serve the continuing care facility, the Town shall be authorized, through its Planning Board, to require as a condition of special use and site plan approval, a financial contribution from the applicant toward providing that equipment, facilities, or training. Such contribution shall be reasonable and directly related to the costs of serving the community. Ambulance services for residents of any continuing care facility shall be provided by and paid for by the applicant.

- f. **Setbacks from Tract Boundary:** No building or structure, other than entrance gatehouses, walls or fences, shall be located within one-hundred (100) feet of any exterior boundary line of the tract, except that the Planning Board may modify this requirement where existing topography, vegetation, and landscaping or improvements such as planted earthen berms mitigate any impacts on neighboring properties.
- g. **Building Separation:** All principal buildings shall be separated by a distance equal to their height, with a minimum separation of twenty-five (25) feet.
- h. **Water and Sewerage Facilities:** No individual wells or individual sewage disposal systems shall be permitted, and each building shall be serviced with said utilities by a community wastewater or disposal system approved by the Board of Health, New York State Department of Environmental Conservation, and other controlling agencies. Such system facilities shall be subject to design review and buffering to minimize aesthetic impacts. No building permit shall be issued unless and until plans for such facilities have been approved by the proper authorities and adequate provisions are made to ensure that such necessary facilities shall be installed.

The water and sewer facilities shall not adversely affect the groundwater supply and quality in the area or on nearby properties. Pump tests demonstrating that there will be no adverse impacts on nearby wells shall be submitted to the Town of Deerpark by the applicant prior to construction of the project. Any water tanks shall be located at least five-hundred (500) feet from any existing residential structures. Should a property owner within five-hundred (500) feet of the development boundary request or require water connection because their well has been affected and the pump test documentation to this effect is satisfactory to the Planning Board, then the applicant shall connect them at no cost.

The potential for sewer connections to adjoining properties shall be investigated at the time the application is reviewed and the Planning Board shall be authorized to require provision of reserve capacity to serve such owners.

- i. **Building Size:** No building within a continuing care facility shall exceed three-hundred (300) feet in length or width. Buildings in excess of one-hundred-fifty (150) feet in dimension shall include breaks in the building planes and ridges every forty (40) feet.
- j. **Parking and Loading Requirements:** No less than one (1) parking space per independent living unit and one (1) parking space per employee on the largest shift shall be provided for the continuing care facility. These requirements may be modified by the Planning Board where evidence, submitted from a competent authority regarding projects of similar design, indicates a greater or lesser

number of spaces may be needed. Loading spaces shall comply with requirements of this Law pertaining to commercial uses.

- k. Accessory Structures: Accessory structures shall not be permitted in front yard areas. No accessory structure shall have a building height of thirty-five (35) feet or be located within twenty-five (25) of any principal structure, except for garbage containers, tool sheds, or similar structures that do not obstruct a fire lane.
3. Occupancy Restrictions: A continuing care facility shall be restricted in occupancy to persons of sixty (60) years or more in age and immediate members of their household who are at least eighteen (18) years of age. This restriction shall be a condition of approval and incorporated into restrictive covenants and management plans for the continuing care facility. Copies of such restrictive covenants, which shall not be changed without the approval of the Town of Deerpark, and management plans shall be submitted as part of the Special Use application.
4. Environmental Review: A continuing care facility, because of its large scope by definition, shall be considered a Type I action for purposes of review under the New York State Environmental Quality Review Act (SEQRA) and to have a significant impact on the environment, requiring the preparation of an Environmental Impact Statement. A public hearing on the Draft Environmental Impact Statement shall take place prior to action on the Special use application so as to permit the attachment of any specific conditions required to mitigate environmental impacts.
5. Health Care Requirements: A continuing care facility shall operate in strict accordance with any applicable health care requirements of New York State, as shall be evidenced by possession of any required licenses from controlling State agencies. The lack of such licenses, where required, shall render Special Use approval from the Town of Deerpark null and void. The revocation of such licenses shall terminate any rights an applicant or owner of a continuing care facility may have to operate in the Town of Deerpark and require the resubmission of plans in the form of a new Special Use application. A continuing care facility shall have a medical director licensed to provide services in the State of New York.
6. Phasing and Renewal of Approval: A continuing care facility project may be phased. Special Use, site plan, and subdivision review and approval shall, with the exception of any minor subdivisions required at the outset to create the parcel(s) being developed, take place concurrently, provided that preliminary site plans and plats shall be acted upon within the time periods provided under Section 276 of the New York State Town Law. Final site plans and plats and conditionally approved site plans and plats shall be valid for a period of three (3) years from the date of approval unless extended by the Planning Board subject to a phasing plan. Special Use approval for any phases not completed or financially guaranteed, as provided below, within such three (3) year period, as may be extended by the Planning Board, shall immediately expire.
7. Installation of Improvements and Financial Guarantees: The provisions of Section 277 of the New York State Town Law shall apply to installation or financial guarantee of all road and driveway improvements, parking areas, utility infrastructure, and outdoor recreational facilities connected with a continuing care facility, but not to the principal or accessory buildings or any other indoor improvements of a similar nature.

TOWN OF DEERPARK ZONING LAW § 230-30 – SCHEDULE OF SIGN REGULATIONS

	Prohibited Signs	Signs Allowed Without Permits	Signs Allowed With Permits from Enforcement Officer	Maximum Sign Surface Area Allowed for All Lot Signs Combined		Signs Permitted Upon Review by Planning Board
				Freestanding	Wall Signs	
RESIDENTIAL DISTRICTS (NR, RRC AND RS)	<p>Roof Signs Signs extending above the top or the end of exterior walls by any means Freestanding signs over 10 feet in height from grade level Portable sign structures Signs extending over public rights-of-way Signs resembling traffic signals or official traffic signs Signs unrelated to permitted uses on a property Signs not specifically allowed or permitted in this district Flashing, oscillating, and neon signs and signs with spotlights directed away from the sign Revolving or moving signs</p>	<p>One (1) non-illuminated real estate signs of twelve (12) sq.ft. per front lot line or three (3) signs totaling thirty-six (36) sq.ft. per 500 LN Trespassing signs of two (2) sq. ft. Traffic directional signs of two (2) sq. ft. Two (2) contractors' signs of sixteen (16) sq. ft. per property Two (2) farm products or yard sale signs of twelve (12) sq. ft. Temporary signs of twelve (12) sq. ft. One (1) home occupation sign of four (4) sq. ft. (up to 8 sq. ft. if ground sign is used) One (1) folding sandwich board signs of twelve (12) sq. ft. per side Traffic directional signs</p>	<p>All other signs require Planning Board approval</p>	<p>One (1) sq. ft. per five (5) feet of lot frontage or fifty (50) sq. ft. total for both sides combined for all signs, whichever is less.</p>	<p>Five percent (5%) of the building façade area or twenty-five (25) sq. ft., whichever is less. No more than 10% of any single building face shall be occupied with signs, however.</p>	<p>Subject to maximum sign surface area limits for all signs combined, any sign may be permitted following review and approval by the Planning Board using criteria found in § 230-30(D)</p>
RURAL RESIDENTIAL DISTRICT (RR)	<p>Roof Signs Signs extending above the top or the end of exterior walls by any means Freestanding signs over 10 feet in height from grade level Portable sign structures Signs resembling traffic signals or official traffic signs Signs unrelated to permitted uses on a property Signs not specifically allowed or permitted in this district Flashing, oscillating, and neon signs and signs with spotlights directed away from the sign Revolving or moving signs</p>	<p>One (1) non-illuminated real estate signs of twelve (12) sq. ft. per front lot line or thirty-six (36) sq.ft. per 500 LN per front line Trespassing signs of two (2) sq. ft. Traffic directional signs of two (2) sq. ft. Two (2) contractors' signs of sixteen (16) sq. ft. per property Two (2) farm products or yard sale signs of twelve (12) sq. ft. Temporary signs of twelve (12) sq. ft. Incidental commercial signs of one (1) sq. ft. Replacement banners One (1) home occupation sign of four (4) sq. ft. (up to 8 sq. ft. if ground sign is used) Two (2) folding sandwich board signs of twelve (12) sq. ft. per side</p>	<p>Two temporary or event advertising signs of thirty-two (32) sq. ft. erected no sooner than 45 days before an event and removed no later than 7 days following it. Non-event banners limited to 60 days each and thirty-two (32) sq. ft. total for all banners at any one time. Replacement banners require no permits.</p>	<p>One (1) sq. ft. per one (1) feet of lot frontage or seventy-five (75) sq. ft. total for both sides combined for all signs, whichever is less.</p>	<p>Ten percent (10%) of the building façade area or fifty (50) sq. ft., whichever is less. No more than 25% of any single building face shall be occupied with signs, however. Multiple business locations on a single property with a commercial directory shall each be limited to twenty-five (25) sq. ft. sign surface total.</p>	<p>Subject to maximum sign surface area limits for all signs combined, any sign may be permitted following review and approval by the Planning Board using criteria found in § 230-30(D)</p>

TOWN OF DEERPARK ZONING LAW § 230-30 – SCHEDULE OF SIGN REGULATIONS

	Prohibited Signs	Signs Allowed Without Permits	Signs Allowed With Permits from Enforcement Officer	Maximum Sign Surface Area Allowed for All Lot Signs Combined		Signs Permitted Upon Review by Planning Board
				Freestanding	Wall Signs	
ALL OTHER COMMERCIAL/INDUSTRIAL DISTRICT (HMU, IB, AND I-1)	<p>Roof Signs Signs extending above the top or the end of exterior walls by any means Freestanding signs over 10 feet in height from grade level Portable sign structures Signs resembling traffic signals or official traffic signs Signs unrelated to permitted uses on a property Signs not specifically allowed or permitted in this district Flashing, oscillating, and neon signs and signs with spotlights directed away from the sign Revolving or moving signs Signs extending over public rights-of-way</p>	<p>Two (2) non-illuminated real estate signs of twelve (12) sq.ft. per front lot line or thirty-six (36) sq.ft. per 500 ln.ft. Trespassing signs of two (2) sq. ft. Traffic directional signs of two (2) sq. ft. Two (2) contractors' signs of sixteen (16) sq. ft. per property Two (2) farm products or yard sale signs of twelve (12) sq. ft. Temporary signs of twelve (12) sq. ft. Incidental commercial signs of one (1) sq. ft. Replacement banners One (1) home occupation sign of four (4) sq. ft. (up to 8 sq. ft. if ground sign is used)</p>	<p>One commercial directory sign of twenty (20) sq. ft. per side plus individual business signs of ten (10) sq. ft. each. Not to exceed eight (8) feet high. Replaces other freestanding signs but not wall signs.</p> <p>Two temporary or event advertising signs of thirty-two (32) sq. ft. erected no sooner than 45 days before an event and removed no later than 7 days following it. Non-event banners limited to 60 days each and thirty-two (32) sq. ft. total for all banners at any one time. Replacement banners require no permits.</p>	<p>One (1) sq. ft. per two (2) feet of lot frontage or one-hundred (100) sq. ft. total for both sides combined for all signs, whichever is less.</p>	<p>Twenty percent (20%) of the building façade area or two-hundred (200) sq. ft., whichever is less provided that multiple business locations on a single property with a commercial directory shall each be limited to fifty (50) sq. ft. No more than 25% of any single building face shall be occupied with signs, however.</p>	<p>Subject to maximum sign surface area limits for all signs combined, any sign may be permitted following review and approval by the Planning Board using criteria found in § 5.8.4. Neon striping or other similar brightly painted strips or building borders which are used to highlight or extend a sign shall not be counted in the sign surface area but shall be subject to review. Height requirements can be waived for visibility from Interstate in the IB Zone.</p> <p>IB ZONE ONLY: Signs with Special User Permit; Billboards and Digital Billboard Signs as permitted by Planning Board on a case-by-case basis.</p>

ARTICLE 6
NON-CONFORMING USES AND STRUCTURES

§ 230-39 Rights to Continue Non-conforming Uses

- A. A use, building, or structure lawfully in existence as of the effective date of this Law and non-conforming with it or any subsequent amendment may be continued, except as otherwise provided herein with respect to specific uses. Upon request, the Building Inspector may issue Certificates of Non-conformance to owners or operators of bona fide non-conforming uses, building, or structures who desire confirmation of their rights hereunder.
- B. It is the purpose of this Article to limit the injurious impact of non-conforming uses, building, lots, and structures on other adjacent properties within a particular district and the community as a whole, while recognizing that alterations, continuations, and extensions of non-conforming uses, building, or structures may not be contrary to the public interest or the general purpose of this Zoning Law, when failure to allow such alteration, continuation or extension would itself lead to neighborhood or district deterioration.
- C. It is further the purpose of this Article to set forth those standards which are to be applied by the Town in determining the reasonableness of proposals to alter, continue or extend a non-conforming use and to establish when Town review and approval shall be required for such actions.
- D. The protections extended by this Article to existing non-conforming uses, buildings, lots, or structures, commonly known as “grandfathering”, shall not extend to any non-conforming activity occurring subsequent to the effective date of this Law, as amended.

§ 230-40 Normal Maintenance and Repairs

- A. Normal maintenance and repair activities, such as painting, replacing a roof, or fixing gutters, shall be permitted. Also permitted are alterations, such as adding or removing windows, and interior renovations that do not structurally alter buildings, add living areas or result in extended or increased non-conforming use of a building, lot, or structure.
- B. Increases in outside storage or display of retail or wholesale inventory, which in the ordinary course of business would be sold within one (1) year, shall be permitted, providing they do not eliminate parking spaces, unoccupied open spaces, or accesses required by this Law. Notwithstanding this provision, however, the Planning Board, in reviewing any Special use application for expansion or upon determining, with respect to any present use, that a condition exists which requires remedies, may establish limits on such storage or display or require removal of inventory (altogether or to another location on the site) to preserve adequate sight distances and residential buffers or otherwise protect public health, safety, and welfare.

§ 230-41 Restoration, Reconstruction, or Re-establishment

- A. If less than 75% of the floor area of any non-conforming use, building, or structure is damaged, it may be restored or reconstructed by building permit issued within twelve (12) months of the date of the damage. If more than 75% is affected, then the replacement or reconstruction shall be permitted by Special Use permit. Single-family dwellings shall be exempt from this requirement provided a building permit is obtained.
- B. A non-conforming use, building, or structure may be re-established within a period of twelve (12) months after it has been discontinued or vacated, with an extension of up to twelve (12) months allowable where proven necessary to the Building Inspector.

- C. A non-conforming use, building, or structure shall be considered abandoned under any one of the following circumstances:
 - 1. The intent of the owner to discontinue the use is made obvious by the posting of signs, boarding up of windows, failure to pay taxes or assessments or other measures which demonstrate the enterprise is going out of business or the use is otherwise ending.
 - 2. The building has not been occupied for twelve (12) months or more.
 - 3. The non-conforming use has been replaced by a conforming use or changed to another use under permit from the Town.
 - 4. The equipment and furnishings used in furtherance of the non-conforming use have been removed from the premises.
- D. The Building Inspector, on determining these circumstances exist, shall, by certified mail, so notify the property owner of record informing the owner the use is considered abandoned and may not be re-established once a period of twelve (12) additional months has expired. If an owner cannot be reached through the mail, the Building Inspector shall publish the notice once in a newspaper of general circulation in the Town and/or post the property and the owner shall be presumed to have been notified.

§ 230-42 Changes and Additions

Excepting for activities provided for in § 230-41(C) above and accessory uses, all changes and additions to non-conforming uses shall be considered Special Uses, and permits for alterations, changes in use, or additions shall be granted only after a determination by the Planning Board that the following conditions have been, or will be, satisfied:

- A. There shall be no expansion in the amount of land area outside a non-conforming facility (outdoor area) used for storage of materials, supplies and/or products, excepting with respect to those types of uses outlined in § 230-41(B) and § 230-42(C) below.
- B. Where the non-conforming activity is one which necessarily results in the storage of large quantities of material, supplies or products outside (such as a lumberyard), the Planning Board may require dense evergreen screening sufficient to shield all such materials from the view of adjacent landowners and/or the traveling public.
- C. No addition, change, or expansion of a non-conforming use shall further violate setback and/or height regulations of the district in which it is located. Moreover, no change of use shall be to one of a more intensive classification (e.g. one with more employees, more traffic, more parking). A non-conforming retail enterprise could be converted to a barber shop, for example, but not to an industrial use.
- D. There shall be no increase in the amount of storm water runoff for the site over what was existing as of the date of the enactment of this Law. The U.S.D.A. Soil Conservation Service, a Professional Engineer, NYSDEC, or other appropriate professional may be relied upon to recommend appropriate measures to control storm water runoff. Such measures shall be attached as conditions of approval by the Planning Board.
- E. In no case will a change, addition, or extension of a non-conforming use be allowed which would result in a traffic increase that would decrease the Level of Service for the highway, the diversion of traffic closer to a nearby residence or a reduction of any of the parking and unloading requirements of this law where additional parking or loading would otherwise be required due to the change, addition, or expansion. If the total number of parking spaces for the site is to be increased more than 25% over

those available as of the date of this law, the Planning Board may require vegetative screening of the parking area from nearby residential areas.

- F. The use may only be expanded or extended onto another property of record if that property is immediately adjacent to the lot on which the original structure or use was located as of the effective date of this law, or amendments hereto and the use is not one which has been altogether prohibited as a new use under this law.
- G. Should the use proposed for expansion or extension be one which is specifically prohibited as a new use in the Town or is determined by the Planning Board to be one similar to such a use or of such a nature as to impose health, safety, or welfare concerns which cannot be satisfied by the imposition of the conditions permitted under this law, the requested expansion or extension shall be denied.

§ 230-43 Use of Existing Non-conforming Lots of Record

A structure may be erected on any existing lot of record, providing the owner does not own adjoining property; no front yard is reduced in size and no side yard is reduced to less than fifty (50%) percent of the requirement for the district in which it is located or twenty (20) feet, whichever is greater; and a sewage disposal system meeting New York State standards, including well and septic isolation distances, can be placed on the lot should public facilities be unavailable.

ARTICLE 7

PERMITTED USES; PERMITTED USES WITH PLANNING BOARD APPROVAL;
SPECIAL USE AND SITE PLAN REVIEW PROCEDURES

The Town of Deerpark Planning Board is authorized, in accordance with Sections 274-a and 274-b of the New York State Town Law, to review and approve, approve with modifications or disapprove Special Uses and site plans connected therewith. Site plan review shall be required for all Special Use permits and such other uses as the Town Board may from time to time designate by local law. All enumerated procedures and regulations set forth for this article shall also apply to site plans submitted for review and approval for all permitted uses with Planning Board approval. The following procedures shall apply:

§ 230-44 Preliminary Site Plan

An applicant for a Special Use permit may submit a preliminary site plan for review and advice by the Planning Board. Such a preliminary site plan should provide locations and dimensions of the proposed use in relation to the property boundaries and adjacent uses. It should also indicate all accesses and improvements both existing and proposed and any site features which could have a bearing on the project including the general topography and existing ground cover. This preliminary plan shall be used by the Planning Board as a basis for advising the applicant regarding information it shall require on the site plan before it conducts a public hearing or takes any action with respect to the plan. The Planning Board shall give no approval or disapproval regarding any preliminary site plan but may use it to schedule a public hearing if sufficient data is available, determine if any provisions of this article should be waived or begin its review of the application under the New York State Environmental Quality Review Act ("SEQRA").

§ 230-45 Application and Site Plan Required

The Planning Board shall be under no obligation to schedule a public hearing or take any action with respect to a Special Use permit application until formal application has been made on forms provided by the Board and a detailed site plan providing the following information has been submitted:

- A. The location of all existing watercourses, wooded areas, rights-of-way, roads, structures, or any other significant man-made or natural feature, if such feature has an effect upon the use of said property.
- B. The location, use, and floor or ground area of each proposed building, structure, or any other land use, including stormwater management, sewage disposal, and water supply systems.
- C. The location of all significant landscaping and ground cover features, both existing and proposed, including detailed planting plans and a visual depiction or rendering of the final appearance of the property after all landscaping and other physical improvements are completed.
- D. The location, dimensions, and capacity of any proposed roads, off-street parking areas or loading berths, including typical cross-sections for all paving or re-grading involved.
- E. The location and treatment of proposed entrances and exits to public rights-of-way, including traffic signals, channelizations, acceleration and deceleration lanes, widenings or any other measure having an impact on traffic safety conditions.
- F. The location and identification of proposed open spaces, parks or other recreation areas.
- G. The location and design of buffer areas and screening devices to be maintained.
- H. The location of trails, walkways, and all other areas proposed to be devoted to pedestrian use.

- I. The location of public and private utilities, including maintenance facilities.
- J. The specific locations of all signs existing and proposed, including a visual depiction of the latter.
- K. Preliminary architectural plans for the proposed buildings or structures, indicating typical floor plans, elevations, height, and general design or architectural styling.
- L. A completed SEQRA Environmental Assessment.
- M. Any other information required by the Planning Board which is clearly necessary to ascertain compliance with the provisions of this law and limited to such information.

§ 230-46 Waivers

The Town of Deerpark Planning Board shall, pursuant to Section 274-a(5) of the Town Law, have the right to waive, when reasonable, any of the procedural requirements of this article for the approval, approval with modifications, or disapproval of Special Use permits and site plans submitted for approval. This waiver authority may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety, or general welfare or are inappropriate to a particular site plan. Any such waiver shall be subject to the following conditions:

- A. No waiver shall result in allowing a use not permitted within the applicable Zoning District.
- B. No waiver shall be given with respect to standards outside the scope of this article which would otherwise require a variance from the Zoning Board of Appeals.
- C. Waivers shall be limited to those situations where the full application of the requirements contained herein would generate unnecessary data and create unnecessary costs with regard to deciding the matter at hand, due to the scope or nature of the project involved. The proposed enclosure of a deck or a simple change of use with no significant structural modifications in the case of a commercial property, for example, might not require typical cross-sections for proposed re-grading or water supply data.
- D. An applicant for site plan approval who desires to seek a waiver of certain of the above referenced requirements pertaining to such applications shall submit a preliminary site plan as provided above. The Planning Board shall review the preliminary site plan, advise the applicant as to potential problems and concerns, and determine if any additional site plan information is required. The Planning Board shall consider such site plan as adequate when, in its judgment, the information submitted is sufficient to make a determination of compliance with the development standards contained herein and the intent of site plan review criteria found below.
- E. Nothing herein shall authorize the Planning Board to waive State Environmental Quality Review requirements.

§ 230-47 Hearing and Decision

The Planning Board shall fix a time, within sixty-two (62) days from the day the Board deems complete an application for a Special Use permit or site plan approval is made, for the hearing of any matter referred to under this section. It shall give public notice of such hearing at least five (5) days prior to it in a newspaper of general circulation in the Town and decide upon the application within sixty-two (62) days after such hearing. It shall not, however, grant approval before a decision has been made with respect to environmental impacts pursuant to SEQRA. The decision of the Planning Board shall be filed in the office of the Town Clerk and a copy thereof mailed to the applicant within five (5) business days after such decision is rendered.

§ 230-48 Conditions

The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed Special Use permit or site plan. Upon approval of said permit and/or plan, any such conditions shall be met prior to the actual issuance of permits by the Town. These conditions may include requirements of the applicant to provide parkland or to provide fees in lieu thereof pursuant to Section 274-a(6) of the New York State Town Law for new lots and residential units of any kind.

§ 230-49 Referrals

The Planning Board is authorized to refer Special Use permit applications and site plans to other agencies, groups or professionals employed or used by the Town for review and comment and to charge the applicant fees for any reasonable expenses connected therewith. The Board shall, in particular, ensure that the requirements of Section 239-m of the General Municipal Law regarding review by the Orange County Planning Department are met. It shall also comply with all requirements of the New York State Environmental Quality Review Act.

§ 230-50 Appeals

Any person aggrieved by any decision of the Planning Board or any officer, department, board or bureau of the Town may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules.

§ 230-51 Effect of Site Plan Approval

The site plan as approved by the Planning Board shall be binding upon the applicant. Any changes from the approved plan shall require re-submission and re-approval by the Planning Board. The site plan shall remain effective, as an authorization to establish the use, for a maximum of two (2) years from the date of approval unless the Planning Board shall have granted an extension in writing. Absent such an extension the Special Use shall be deemed to have expired. A permitted use, permitted with Planning Board approval, special use or accessory use which has been discontinued for a period of five (5) years or more shall also be deemed to have lapsed.

§ 230-52 Renewal of Permits

The Planning Board may require, at the time it is initially granted, that any Special Use approval be renewed periodically. Such renewal shall be granted following public notice and hearing and may be withheld only upon a determination that the conditions attached to any previous approval have not been met. A period of sixty-two (62) days shall be granted the applicant in such cases to make remedies and bring the use into full compliance with the terms of the Special Use approval. Should the applicant fail to make such remedies, the Special Use approval shall be revoked and the use immediately discontinued.

§ 230-53 Conformity with Other Plans, Laws and Ordinances

The Planning Board, in reviewing the site plan, shall consider its conformity to the Town of Deerpark Comprehensive Plan and the various other plans, laws and ordinances of the Town. Conservation features, aesthetics, landscaping, and impact on surrounding development as well as on the entire town shall be part of the Planning Board review. Traffic flow, circulation, and parking shall be reviewed to ensure the safety of the public and of the users of the facility and to ensure that there is no unreasonable interference with traffic on surrounding streets. The Planning Board shall further consider the following:

- A. Building Design and Location: Building design and location should be suitable for the use intended and compatible with natural and man-made surroundings. New buildings, for example, should generally be placed along the edges and not in the middle of open fields. They should also be sited so as to not protrude above treetops or the crest lines of hills seen from public places and busy highways.

- Building color, materials, and design should be adapted to surroundings as opposed to adaptation of the site to the building or the building to an arbitrary national franchise concept.
- B. **Large Commercial Buildings:** Commercial facades of more than one-hundred (100) feet in length should incorporate recesses and projections, such as windows, awnings, and arcades, along twenty (20%) percent of the façade length. Variations in rooflines should be added to reduce the massive scale of these structures and add interest. All facades of such a building that are visible from adjoining streets or properties should exhibit features comparable in character to the front so as to better integrate with the community. Where such facades face adjacent residential uses, earthen berms planted with evergreen trees should be provided. Loading docks and accessory facilities should be incorporated in the building design and screened with materials comparable in quality to the principal structure. Sidewalks should be integrated into a system of internal landscape defined pedestrian walkways breaking up all parking areas.
 - C. **Lighting and Signage:** Improvements made to the property should not detract from the character of the neighborhood by producing excessive lighting or unnecessary sign proliferation. Recessed lighting and landscaped ground signs are preferred.
 - D. **Parking and Accessory Buildings:** Parking areas should be placed in the rear whenever possible and provide for connections with adjoining lots. Accessory buildings should also be located in the rear with access from rear alleys. If placement in the rear is not possible, parking lots should be located to the side with screening from the street.
 - E. **Drainage Systems:** Storm drainage, flooding, and erosion and sedimentation controls should be employed to prevent injury to persons, water damage to property, and siltation to streams and other water bodies.
 - F. **Driveway and Road Construction:** Whenever feasible, existing roads onto or across properties should be retained and re-sued instead of building new, so as to minimize the use of present features such as stone walls and tree borders and avoid unnecessary destruction of landscape and tree canopy. Developers building new driveways or roads through wooded areas should reduce removal of tree canopy by restricting clearing and pavement width to the minimum required for safely accommodating anticipated traffic flows. All driveways and streets shall be subject to Town of Deerpark requirements and review by the Superintendent of Highways.
 - G. **Construction on Slopes:** The crossing of steep slopes with roads and driveways should be minimized and building which does not take place on slopes should be multi-storied with entrances at different levels as opposed as re-grading the site flat.
 - H. **Tree Borders:** New driveways onto principal thoroughfares should be minimized for both traffic safety and aesthetic purposes and interior access drives which preserve tree borders along highways should be used as an alternative. Developers who preserve tree borders should be permitted to recover density on the interior of their property through use of clustering.
 - I. **Development at Intersections:** Building sites at prominent intersections of new developments should be reserved for equally prominent buildings or features which will appropriately terminate the street vistas. All street corners should be defined with buildings, tree, or sidewalks.
 - J. **Street and Sidewalks:** Cul-de-sac and dead-end streets should be discouraged in favor of roads and drives which connect to existing streets on both ends. Streets within residentially developed areas should be accompanied by on-street parking and a sidewalk on at least one side of the street. Where the area is already served with sidewalks, sidewalk extensions should also be provided from new commercial development areas to adjacent residential areas and pedestrian access should be encouraged.
 - K. **Impact on the Neversink Aquifer:** New Special Use applications and subdivisions of ten (10) lots or more shall be reviewed for impacts on the Neversink Aquifer (see Comprehensive Plan).

Hydrogeologic studies may be required to evaluate impacts, condition approvals or determine the permitted density for such projects.

§ 230-54 Special Use Review Criteria

The Planning Board, in acting upon the site plan, shall also be approving, approving with modifications, or disapproving the Special Use permit application connected therewith taking into consideration not only the criteria contained above but also the following:

- A. Whether the proposed use will result in an overconcentration of such uses in a particular area of the Town or is needed to address a deficiency of such uses. The Board shall, in this regard, consider the suitability of the site proposed for a particular use as compared to the suitability of other sites in the immediate area.
- B. Whether the proposed use will have a detrimental or positive impact on adjacent properties or the health, safety, and welfare of the residents of the Town of Deerpark.
- C. If the proposed use is one judged to present detrimental impacts, whether an approval could be conditioned in such a manner as to eliminate or substantially reduce those impacts.
- D. Whether the use will have a positive or negative effect on the environment, job creation, the economy, housing availability, or open space preservation.
- E. Whether the granting of an approval will cause an economic burden on community facilities or services, including but not limited to highways, sewage treatment facilities, water supplies, and firefighting capabilities. The applicant shall be responsible for providing such improvements or additional services as may be required to adequately serve the proposed use and any approval shall be so conditioned. The Town shall be authorized to demand fees in support of such services where they cannot be directly provided by the applicant. This shall specifically apply, but not be limited to, additional fees to support fire-district expenses.
- F. Whether the site plan indicates the property will be developed and improved in a way which is consistent with that character which this law and the Town's Comprehensive Plan are intended to produce or protect, including appropriate landscaping and attention to aesthetics and natural feature preservation.

§ 230-55 Landscaping Standards Applicable to Special Uses

- A. The Planning Board may, to assure an acceptable buffer between adjacent residential and non-residential uses and create a healthy, safe and aesthetically pleasing environment in the Town, require a landscape plan be prepared as part of any Special Use application. Such a plan may also be required whenever any non-residential use is proposed in any district so as to buffer parking areas and buildings from the highway, each other, and other uses. Where it is determined that a proposed Special Use would not have a significant impact on the natural environment, adjoining landowners, or the view from a public highway, these requirements may be appropriately modified by the Planning Board.
- B. The landscape plan, if required, shall specify locations of all mature shade trees or other species of six (6) inch caliper or greater and indicate existing vegetation to be removed or preserved. It shall demonstrate how building materials, colors, and textures will be blended with the natural and man-made landscape. It shall also include visual depictions of the proposed landscape from the perspective of persons who will view the site from the highway or adjoining properties. Specific locations, varieties, sizes, winter hardiness, and schedules for all proposed plantings shall, too, be provided as part of the plan.

C. The Planning Board, in reviewing a landscape plan, may employ the assistance of design professionals. The Planning Board shall also specifically consider the following before approving, approving with modifications, or disapproving the Special Use:

1. The plan should promote attractive development, preserve existing vegetation to the maximum extent possible, enhance the appearance of the property and complement the character of the surrounding area.
2. The plan should use landscaping to delineate or define vehicular and pedestrian ways and open space.
3. The plant material selected should be of complementary character to buildings, structures, and native plant species and be of sufficient size and quality to accomplish its intended purposes.
4. The plan should effectively buffer the activity from adjoining land uses as may be necessary and soften the impact of other site development as contrasted with the natural environment.
5. The plan should be realistic in terms of maintenance and use materials which, as a minimum, are winter hardy to Zone 4.

Consideration and determination of the adequacy of the above plan requirements are at the Planning Board's discretion.

D. Landscaping Guidelines: The following minimum specifications are suggested guidelines that the Planning Board may apply when new landscaping is required:

1. The minimum branching height for all shade trees should be six (6) feet.
2. Shade trees should have a minimum caliper of two (2") inches (measured 4 feet above grade) and be at least eight (8') feet in height when planted.
3. Evergreen trees should be a minimum of six (6) feet in height when planted.
4. Shrubs should be a minimum of twenty-four (24") inches in height when planted. Hedges shall form a continuous visual screen within two (2) years after planting.
5. A buffer screen at least fifteen (15) feet in width along any residential lot line should be provided. It shall include, at a minimum, an opaque wooden stockade fence six (6) feet in height and one (1) evergreen tree for every twenty-five (25) linear feet of property line. An additional row of evergreens meeting these standards, and offset such that each row serves to place trees between the gaps of the other, should be permitted as a substitute for the stockade fence.
6. A landscape strip at least ten (10) feet in width, that includes at least one (1) deciduous tree for every fifty (50) linear feet of perimeter lot line should be required for any non-residential use. Such deciduous trees should also be accompanied by smaller shrubs and ground cover as may be required to effectively separate and buffer the activity from the highway but still allow for visibility of the use. The width of this buffer may be reduced along the rear and side lot lines for good cause, but not along the front lot line.
7. All lot area (except where existing vegetation is preserved) should be landscaped with grass, ground cover, shrubs, or other appropriate cover.
8. The preservation of mature shade trees should be required unless there is no alternative but to remove them. These may be used to meet requirements of this section provided the Building

Inspector or Planning Board, as the case may be, determines the purpose of this section is achieved.

- E. A performance guarantee in a form acceptable to the Town Attorney in the amount of one-hundred-twenty-five (125%) percent of the cost of materials and installation may be required to assure that all landscaping survives in a healthy condition for one (1) full year. The Building Inspector or Planning Board, as the case may be, shall determine the amount of the guarantee and consider financial impacts of this requirement on the project. The Building Inspector shall have the right to enter upon the property to inspect the landscaping and, after notifying the owner of any deficiencies, to require that the guarantee be used to pay for the replacement of any dead, dying, diseased, stunned, or infested plant materials.
- F. All applicable requirements of these landscaping regulations imposed by the Planning Board shall be fully met prior to the Building Inspector granting a Certificate of Occupancy for a new building or use subject to these regulations.

§ 230-56 Bonding of Site Improvements for Special Uses,
 Permitted Uses with Planning Board Approval and Subdivisions

- A. Supersession of Statutory Provisions: This section shall, pursuant to the supersession authority granted by the Municipal Home Rule Law, supersede, in its application to the Town of Deerpark, the provisions of §§ 274-a, 276, and 277 of the Town Law of the State of New York relating to the limitation upon the authority of a town to require the posting of a performance bond or other form of security in connection with the approval of a land subdivision plat, to extend such authority to Planning Board approvals of commercial and residential site plans in accordance with the provisions of § 274-a of the Town Law.
- B. Legislative Intent: In order to ensure that once a project has been started it shall not be abandoned, partially completed, or left in a state which will cause erosion of the soil, improper drainage, or any other condition which will result in the deterioration or devaluation of the surrounding land or neighborhood, and in order to ensure that while under construction, the workmanship and materials used shall promote the long life of the project and the health, safety, and welfare of the future users of the subject premises and surrounding areas, the Town Board of the Town of Deerpark has determined it to be a proper exercise of authority conferred upon it by the laws of the State of New York to require the posting of adequate security for the performance of necessary site improvements contemplated in connection with a residential or commercial site development.
- C. Procedure:
 - 1. Prior to or contemporaneously with the grant of final site plan approval for a particular project, the Planning Board, is considering the recommendation of the engineering authorities available to it, shall establish the amount of performance security to cover the full cost of the required site improvements as shown on such final site plan as enumerated in Subsection D hereof. The Planning Board shall make a referral of the matter regarding the establishment of the amount of performance security of a particular project to the Town Board, which referral shall include its recommendation as to the amount of such performance security. The performance security shall become effective only if and when the Town Board shall have approved it as to form, sufficiency of surety, and manner of execution.
 - 2. The performance security shall be in the amount approved by the Town Board in the form of a performance bond issued by a surety company licensed in the State of New York; a letter of credit issued by a federally or state-chartered financial institution; or a savings passbook, money market account or certificate of deposit naming the Town of Deerpark as joint tenant.

3. Such performance security, if in the form of a performance bond or letter of credit, shall run for a term to be fixed by the Planning Board, but in no event for a term longer than three (3) years; provided, however, that the term of such security may be extended by the Planning Board with the consent of the parties thereto. In the event that such security is in the form of a letter of credit, such a letter of credit shall contain a provision requiring automatic renewal thereof unless, not less than thirty (30) days prior to its expiration, the Town of Deerpark is given written notice of the issuing institution's intention not to renew such letter of credit.
 4. The performance security in the full amount established by the Town Board shall be posted with the Town Clerk upon grant of final site plan approval. No building permits shall be issued for and no site preparation work shall be commenced on the subject premises unless and until the necessary performance security has been posted.
 5. A duly designated official of the town shall inspect the improvements during construction to assure their satisfactory completion. An inspection fee of ten (10%) percent of the performance bond amount shall be posted by the applicant to cover the cost of required inspections and a administration fee of ten (10%) percent of the performance bond shall be posted by the applicant to cover administration costs.
 6. During the course of construction, the performance security may be reduced, in the sole discretion of the Town Board upon the recommendation of the Planning Board, to an amount certified by the Town Engineer or the town's consulting engineer to be the probable cost of completion of the remainder of the required site improvements, but in no event shall such amount be reduced to less than fifty (50%) percent of the original amount of the performance security.
 7. The performance security shall be released or reduced only by the Town Board and only upon recommendation of the Planning Board after certification by the Town Engineer or the town's consulting engineer that all or parts of the required site improvements have been completed in conformance with the approved final site plan and all applicable regulations.
- D. Site Improvements Subject to Bonding: The following items are considered essential to the principles stated above and shall be included in the amount of the performance security to be set:
1. Site grading, including replacement of topsoil and seeding, and including necessary structural features such as retaining walls and ground cover.
 2. Drainage, including waterways, conduits and all necessary appurtenances and structures.
 3. Water and sewer systems, including all wells, conduits, structures and appurtenances as may be required by those government agencies having final jurisdiction for approval of those systems.
 4. Foundation course, pavement, curbs, and sidewalks for all roads, drives, parking areas, and walkways.
 5. Lighting, including all necessary wiring, structures, and appurtenances.
 6. Landscaping, including all shrubs, trees, and screening as may be required to ensure that the final site condition meets with the planning and zoning concepts expressed in the Comprehensive Plan of the Town of Deerpark and this chapter, as well as all drainage and soil erosion measures required to protect the site.
 7. The Planning Board shall have the discretion to require only a restoration bond be posted, should it be deemed sufficient to protect the Town's interest. In the event a restoration bond

is posted, the inspection fee to be deposited by the applicant shall be five (5%) percent of the full performance bond amount otherwise required by this section.

- E. Phased Projects: In the event that a particular site plan is to be constructed in sections or phases, the Planning Board, in its sole discretion, taking into consideration the importance of the entirety of the site improvements on the section or phase to be constructed, may recommend to the Town Board that the performance security be posted for only so much of the project as is going to be constructed in a particular phase or section; provided, however, that no building permits shall be issued for and site work shall be conducted on any future phase or section unless and until the required performance security is established for such future phase or section and properly posted in accordance with the provisions of this section.

- F. Default: In the event that any required site improvements have not been installed as provided in this section within the term of the performance security, the Town Board may thereupon declare said performance security to be in default and collect the sum remaining payable thereunder, and, upon receipt of the proceeds thereof, the town shall install such improvements as are covered by such security and are commensurate with the extent of building development that has taken place on the site. In the event that no building has taken place but site preparation has taken place, the proceeds of the security shall be used, to the extent practicable, to restore the site to its original state and avoid erosion and adverse drainage conditions.

ARTICLE 8

ADMINISTRATION AND ENFORCEMENT

§ 230-57 Building Inspector

The Town Board shall provide for the services of a Building Inspector to simultaneously enforce the provisions of this Law and the Uniform Fire Prevention and Building Code Enforcement Law. Such Building Inspector shall examine all applications for permits, issue permits and/or certificates of occupancy for construction and uses which are in accordance with the requirements of this Law, record and file all applications for permits with accompanying plans and documents and make such reports as may be required including, at a minimum, a written monthly activity report to the Town Board. Permits requiring site plan review and Special Use approval, however, shall only be issued with approval of the Town of Deerpark Planning Board. Likewise, permits requiring variances of this law shall only be issued with approval of the Town of Deerpark Zoning Board of Appeals.

§ 230-58 Permit Requirements

- A. No person shall construct, erect, alter, convert, or use any building or structure, or part thereof, nor change the use of any land, subsequent to the adoption of this law, until a building permit and/or Certificate of Occupancy has been issued by the Building Inspector. This shall specifically include, but not be limited to, wells, sewage disposal systems, enlargements, alterations, building demolitions and removals, conversions, electrical installations, plumbing installations, pools, sheds (metal or wood), fences, roofing, siding, and signs. Applications for such permits shall be made to the Building Inspector prior to any construction activity and/or change in the use of land. The Officer shall review such applications and act upon them according to the requirements of this law, taking no action, however, until the Planning Board and/or Zoning Board of Appeals has first taken action, should the approval of either Board be required. A building permit shall authorize the applicant to proceed with construction proposed.
- B. Prior to use of the structure or the change in use of the lands, a Certificate of Occupancy shall be required and shall be issued by the Officer, provided all construction has been in accord with the building permit granted and/or the proposed use is in compliance with this law. The Building Inspector shall be authorized to make such inspections as he deems necessary to ensure that construction does, in fact, comply with this law.
- C. The Building Inspector, with approval of the Town Board, may issue a temporary permit for an otherwise non-conforming structure or use which will promote public health, safety, or welfare, provided such permit shall be of limited duration and the use or structure shall be completely removed within ninety (90) days of expiration of the activity for which it was granted. A temporary permit shall not be valid beyond this period or three (3) years from the date of issuance, whichever is shorter.
- D. The Building Inspector shall ensure that all water supply and sewage disposal facilities proposed in connection with any building permit or Certificate of Occupancy application shall conform with New York State Department of Health guidelines.
- E. It shall be the duty of the Building Inspector to issue a building permit, provided that he is satisfied that the structure, building, sign, and the proposed use conform with all requirements of this law, and that all other reviews and actions, if any, called for in this law have been complied with and all necessary approvals secured therefore.
- F. When the Building Inspector is not satisfied that the applicant's proposed development will meet the requirements of this law, he shall refuse to issue a building permit or Certificate of Occupancy, as the case may be, and the applicant may appeal to the Zoning Board of Appeals.

- G. A building permit or Certificate of Occupancy may be revoked by the Building Inspector upon a finding that information provided in the application was inaccurate or invalid or that the construction or use has proceeded in a manner not consistent with the permit(s) granted.
- H. No change of use shall be made in any building, structure, or premises now or hereafter erected or altered that is not consistent with the requirements of this law. Any person desiring to change the use of his premises shall apply to the Building Inspector for a Certificate of Occupancy. No owner, tenant, or other person shall use or occupy any building or structure or premises thereafter erected or altered, the use of which shall be changed after the passage of this law, without first procuring a Certificate of Occupancy; provided, however, that a Certificate of Occupancy, once granted, shall continue in effect so long as there is no change of use, regardless of change in tenants or occupants.
- I. Though compliance with the development and use standards of this Law will still be required, the following activities shall not demand permits, except as may be required by the New York State Uniform Fire Prevention and Building Code:
 - 1. Above ground swimming pools of two (2) feet or less in depth.
 - 2. Portable structures of less than one-hundred-forty-four (144) square feet in size which are unoccupied and intended for storage.
 - 3. Patios, farm livestock fences, and landscape improvements.
 - 4. All nonstructural accessory uses of a residential or temporary nature (30 days or less).
- J. All applications shall be made on forms as shall be developed and periodically updated by the Building Inspector. Applications shall include plot plans and such other information as is required to determine compliance with the requirements of this law.
- K. A zoning permit shall expire after twenty-four (24) months if the applicant fails to complete the improvements as approved. An extension may be approved by the Building Inspector for good cause (such as seasonal weather conditions) provided that any extension of more than twelve (12) months of subsequent extension of any length shall require approval of the Town Board.
- L. Accessory building permits shall not be issued in advance of permits for principal permitted or Special Uses or without an existing principal use in place and being operated on an on-going basis. Passive uses such as forestry shall not qualify for this purpose. However, accessory uses for other agricultural activities or in connection with seasonal occupations (e.g. structures used to store equipment or hunting camp structures) may be permitted as Special Uses. Accessory uses permitted under such circumstances shall be limited to those with the tangible and primary purpose of serving the principal use.
- M. The Building Inspector may issue a Certificate of Occupancy and/or Compliance to any legally existing use, provided the owner thereof so certifies and the Officer's investigations do not indicate otherwise.
- N. No permits shall be issued for any new uses where there are un-remedied existing violations.

§ 230-59 State Environmental Quality Review Act Compliance

All actions taken with respect to this law shall comply with the New York State Environmental Quality Review Act ("SEQRA") and applicants shall be responsible for providing such data as may be required to determine the significance of any environmental impacts associated with such actions.

§ 230-60 Violations and Penalties

- A. Whenever a violation of this law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Building Inspector, who shall properly record such complaint and immediately investigate and report thereon to the Town Board. Nothing herein shall, however, restrict the right of the Building Inspector to act on a violation absent a complaint.
- B. Should any building or structure be erected, constructed, re-constructed, altered, repaired, converted, or maintained, or any building, structure, or land be used in violation of this law, the Town Board or the Building Inspector, in addition to other remedies, may institute an appropriate action of proceedings to prevent such unlawful erection, construction, re-construction, alteration, repair, conversion, maintenance, or use to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land or to prevent any illegal act, conduct, business, or use in or about such premises.
- C. Whenever a violation of this Law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Building Inspector, who shall properly record such complaint and immediately investigate and report thereon to the Town Board. The Town Board shall be responsible for directing further enforcement.
- D. Should any building or structure be erected, constructed, re-constructed, altered, repaired, converted, or maintained, or any building, structure, or land be used in violation of this Law, the Town Board or the Building Inspector, in addition to other remedies, may institute an appropriate action or proceedings to prevent such unlawful erection, construction, re-construction, alteration, repair, conversion, maintenance, or use to restrain, correct or abate such violation, to prevent the occupancy of said building, structure, or land or to prevent any illegal act, conduct, business, or use in or about such premises.
- E. A violation of this Law is hereby declared to be an offense punishable by a fine not exceeding three-hundred –fifty (\$350) dollars; for conviction of a second offense, punishable by a fine of not less than three-hundred-fifty (\$350) dollars nor more than seven-hundred (\$700) dollars; and upon conviction for a third or subsequent offense, punishable by a fine not less than seven-hundred (\$700) dollars nor more than one-thousand (\$1,000) dollars. Each day’s continued violation shall constitute a separate additional violation.
- F. The Building Inspector or acting Building Inspector, as the case may be, is hereby authorized to issue appearance tickets pursuant to the Criminal Procedure Law in the enforcement of this or any related laws of the Town of Deerpark.

§ 230-61 Fees

The Town Board shall, by resolution, establish and periodically update a schedule of uniform fees, charges and expenses associated with the administration and enforcement of this law. Such schedule may provide for the assessment to applicants of professional costs incurred in the processing and/or review of the applications made pursuant to this law.

ARTICLE 9
ZONING BOARD OF APPEALS

§ 230-62 Establishment and Membership

- A. There is hereby established a Zoning Board of Appeals having the powers authorized under the New York State Town Law. Said Board shall consist of five (5) members of staggered 5-year terms, including a chairperson, appointed by the Town Board. Appointments shall be in accordance with the New York State Town Law and an appointment to a vacancy occurring prior to the expiration of a term shall be for the remainder of the unexpired term. In the absence of a Town Board appointment of a chairperson, the Board of Appeals may designate a member to serve as acting chairperson. The Town Board may also provide for compensation to be paid to experts, clerks, and a secretary and provide for such other expenses as may be necessary and proper. In making such appointments, the Town Board may further require Board of Appeals members to complete training and continuing education courses.
- B. The Town Board shall also supersede the New York State Town Law pursuant to the Municipal Home Rule Law and may, during the annual reorganization meeting of the Town Board, appoint an alternate member of the Zoning Board of Appeals to serve for a term of one (1) year or until a successor is appointed. Such alternate member shall attend meetings and act in the capacity of a full member whenever regular members cannot attend or must reclude themselves due to conflicts of interest. Alternate members shall not participate in the Board's deliberation of any matter in which they are not called upon to act in replacement of a full member.

§ 230-63 Power and Duties

- A. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation, or determination as in its opinion ought to have been made in the matter by the administrative official(s) charged with the enforcement of this law and to that end shall have all powers of the administrative official(s) from whose order, requirement, decision, interpretation, or determination the appeal is taken.
- B. Use Variances:
 - 1. The Zoning Board of Appeals, on appeal from the decision or determination of the administrative officials charged with the enforcement of this law, shall have the power to grant use variances, as defined herein.
 - 2. No such use variance shall be granted by a Zoning Board of Appeals without showing by the applicant that applicable regulations and restrictions of this law have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that:
 - a. He or she cannot realize a reasonable return, provided lack of return is substantial as demonstrated by competent financial evidence.
 - b. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.
 - c. The requested use variance, if granted, will not alter the essential character of the neighborhood.
 - d. The alleged hardship has not been self-created.

3. The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

C. Area Variances:

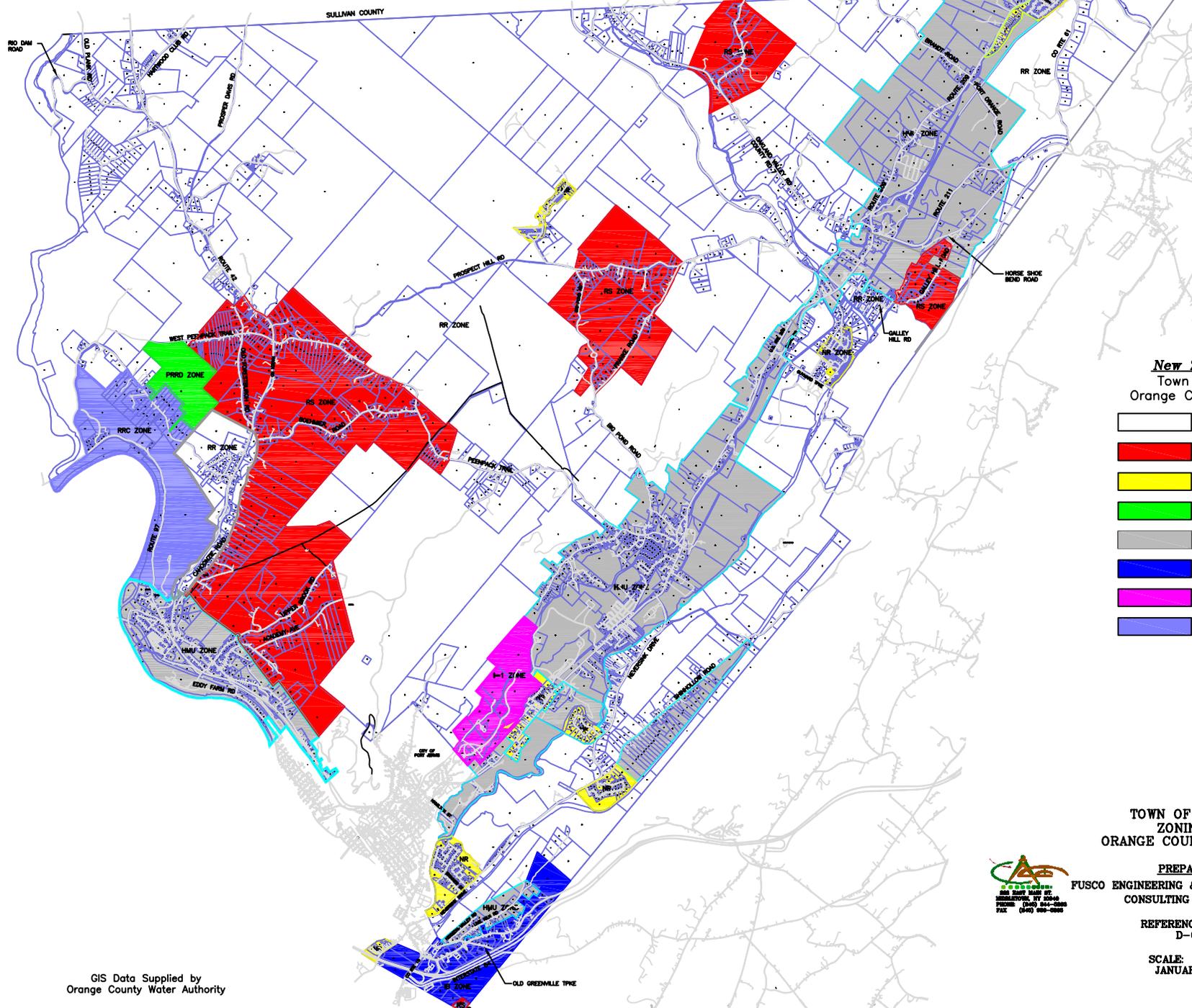
1. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative officials charged with the enforcement of this law, to grant area variances as defined herein.
 2. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant. In making such determination, the Board of Appeals shall also consider:
 - a. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
 - b. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
 - c. Whether the requested area variance is substantial.
 - d. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
 - e. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.
 - f. The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.
- D. The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and/or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

§ 230-64 Procedures

- A. All meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at such other times as such Board may determine. Such Chairperson, or in his or her absence, the acting Chairperson, may administer oaths and compel the attendance of witnesses.
- B. Meeting of the Zoning Board of Appeals shall be open to the public to the extent provided in Article Seven of the Public Officers Law. The Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.

- C. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision, or determination of the Board of Appeals shall be filed in the office of the Town Clerk within five (5) business days and shall be a public record. Every decision of the Zoning Board of Appeals shall be made by resolution and include findings establishing the basis of the decision.
- D. The Zoning Board of Appeals shall have the authority to call upon any department, agency, or employee of the Town of such assistance as shall be deemed necessary and as shall be authorized by the Town Board. It shall also have authority to refer matters to the Town Planning Board for review and recommendation prior to making a decision.
- E. Except as otherwise provided herein, the jurisdiction of the Zoning Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the administrative officials charged with the enforcement of this law. The concurring vote of three (3) members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved, or by an officer, department, board, or bureau of the Town.
- F. Such appeal shall be taken within sixty (60) days after the filing of any order, requirement, decision, interpretation, or determination of the administrative officials charged with the enforcement of this law by filing with such administrative official and with the Zoning Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The administrative official(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record for the application appealed.
- G. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of such ordinance or local law, from whom the appeal is taken, certifies to the Zoning Board of Appeals, after the notice of appeal shall have been filed with the administrative office, that by reason of facts stated in the certificate of stay, would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.
- H. The Zoning Board of Appeals shall fix a reasonable time, no more than sixty-two (62) days following application, for the hearing of the appeal or other matter referred to it and give public notice of such hearing by publication in a paper of general circulation in the Town at least five (5) days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal shall be borne by the appealing party and shall be paid to the Board prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent, or attorney. The hearing shall be conducted in accordance with rules of the Zoning Board of Appeals. Such rules shall permit cross-examination by parties, provide for evidentiary procedures, and allow for re-hearings on the unanimous vote of the members present.
- I. The Zoning Board of Appeals shall decide upon the appeal within sixty-two (62) days after the close of said hearing. The time within which the Board of Appeals must render its decision may, however, be extended by mutual consent of the applicant and the Board.
- J. The decision of the Zoning Board of Appeals on the appeal shall be filed in the office of the Town Clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
- K. At least five (5) days before such hearing, the Zoning Board of Appeals shall mail notices thereof to the parties; to the regional state park commission having jurisdiction over any state park or parkway within five-hundred (500) feet of the property affected by such appeal; and to the Orange County Planning Department, as required by Section 239-m of the General Municipal Law. No Zoning Board of Appeals decision shall be made except in conformance with such 239-m procedures including

requirements for an affirmative vote of no less than four (4) members of the Board if it shall determine to approve an application which the County has recommended it disapprove or modify.



New Zoning Legend
 Town of Deerpark
 Orange County, New York

- RR ZONE RURAL RESIDENTIAL
- RS ZONE RESIDENTIAL SETTLEMENT
- NR ZONE NEIGHBORHOOD RESIDENTIAL
- PPRD ZONE PLANNED RESIDENTIAL RETIREMENT DISTRICT
- HMU ZONE HAMLET - MIXED USE
- IB ZONE INTERCHANGE BUSINESS
- I-1 ZONE INDUSTRIAL
- RRC ZONE RECREATIONAL RIVER CORRIDOR

**TOWN OF DEERPARK
 ZONING MAP
 ORANGE COUNTY, NEW YORK**



PREPARED BY:
 FUSCO ENGINEERING & LAND SURVEYING, P.C.
 CONSULTING ENGINEERS

REFERENCE NUMBER:
 D-0126

SCALE: 1"=2,000'
 JANUARY, 2013

GIS Data Supplied by
 Orange County Water Authority