



ZONING CODE

Town of Sparta



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ARTICLE I – GENERAL PROVISIONS

Section 101 - TITLE

The title of this Code is the “Land Development Code of the Town of Sparta, New York”. The Code shall include this text, the official zoning map, and the fee schedule.

Section 102 - PURPOSE AND INTENT

The objectives of this Land Development Code are:

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

Section 103 - CONFLICT WITH OTHER LAWS

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

Section 104 - VALIDITY AND SEVERABILITY

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

Section 105 - INTERPRETATION

In interpreting, construing and applying the provisions of this Code, they shall be held to be the minimum requirements for the protection of the public safety, convenience, prosperity, and general welfare of the public. It is not intended that this Code shall conflict, abrogate, or annul any other ordinance, local law, rule or regulation of the Town of Sparta previously adopted or which may hereafter be adopted and not in conflict with these Codes, nor is it intended by this Code to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; however, that where this Code imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger yards, courts, or other open spaces than are imposed or required by such existing provisions of law or ordinance, or by such rules, regulations, or permits, or by such easements, covenants, or agreements, the provisions of this Code shall control.

Section 106 - REPEAL OF PRIOR ORDINANCE

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

Section 107 - AMENDMENTS

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

- A. Petition for Zoning Change or Amendment
 - 1. Whenever any person, firm or corporation desires that any amendments or changes be made in this Code, including the text and/or map, as to any property in the Town, there shall be presented to the Board a petition requesting such change or amendment. The petition shall clearly describe the property or properties proposed for rezoning and their boundaries, and shall indicate the existing zoning district and the requested zoning district or districts. The petition shall also show existing highways, municipal boundary lines, state parks and state or county institutions, if such exist, within five hundred (500) feet of the proposed zoning change. The petition shall also list the names and addresses of all property owners bordering the proposed change. A filing fee, pursuant to regulations adopted by the Town Board, shall be paid at the time of filing the petition.
 - 2. The Town Board shall take action on the petition as is described in Sections 265 and 265 of the New York State Town Law.

- B. Public Hearing Required
 - 1. No amendment shall become effective until after a public hearing, at which parties in interest and citizens shall have an opportunity to be heard.
 - 2. As required by NYS Town Law Section 264, notice of the place and of such hearing shall be published in a paper of general circulation in the Town of Sparta at least ten days prior to the hearing.

- C. Notification to Neighboring Towns
 - 1. If the proposed zoning change affects property within five hundred feet of boundaries of any town or county, a written notice shall be sent to the Clerk of such town or county at least ten days prior to the date of the public hearing.
 - 2. Such town or county shall have the right to appear and to be heard at such public hearing with respect to any such proposed change or amendment, but shall not have the right of review by a court as herein after provided.

- D. Referral to County Planning Board
 - 1. When the zoning change or amendment affects property within 500 feet of a municipal boundary, a state or county highway, or a state or county institution, details of the proposed change or amendment shall be sent to the County Planning Board pursuant to Section 229 of General Municipal Law.

Section 108 - EFFECTIVE DATE

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

Section 109 - ENFORCEMENT AND PENALTIES FOR OFFENSES

- A. Enforcement

It shall be the duty of the Town Board, or such officials authorized by it, to enforce the provisions of this chapter or of any determination of the Board of Appeals and the Town Clerk or the Planning Board.

- B. Penalties for offenses

The violation of any of the provisions of this chapter is an offense and shall subject the person violating the same to a fine not exceeding two hundred fifty dollars (\$250.00) or to imprisonment not exceeding fifteen (15) days, or both.

- C. Continued violation

Each weeks continued violation shall be considered a separate and distinct offense.

D. Appearance tickets

The Code Enforcement Officer is authorized to issue appearance tickets for any violation of this law.

E. Injunctive relief

An action or a special proceeding may be instituted in the name of the town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct or abate any violation of this law, or to enforce or obtain compliance with any provision of this law.

F. Attorney's fees and costs

The property owner(s) and all violators of any provision(s) of this law shall be jointly and severally liable to the Town for all costs incurred by the Town including but not limited to necessary and reasonable attorney's fees, to cure said violations and obtain compliance with this law, both by criminal and civil means. Said costs shall be recoverable either by plenary action or in such action or special proceeding brought by the Town to cure said violations and obtain compliance.

ARTICLE II – PERMITS AND APPLICATION PROCEDURES

Section 201 - PERMITS REQUIRED

- A. No use of land or structures shall be established, changed or added, nor Building Permit granted, nor structure erected or enlarged, nor land developed until a Zoning Permit has been issued by the Code Enforcement Officer (CEO), who shall issue such permits in accordance with the regulations in this Code. Use of land or structures on a farm, exclusively for agricultural purposes, shall not require a zoning permit.
- B. Application for a Zoning Permit shall be filed with the Town Clerk, (or with the CEO) on forms approved by the Town.
- C. When a Building Permit is also required, pursuant to the NYS Uniform Fire Prevention and Building Code, as administered in the Town of Sparta, the application for a Zoning Permit shall be submitted before or at the same time as the application for a Building Permit.
- D. A Zoning Permit and Building Permit shall be valid for two (2) years. The Building/Zoning Permit may be renewed for an additional two (2) years provided the applicant presents evidence of reasonable progress towards completion of construction. If construction or change of use is not completed during this time, the Zoning/Building Permit becomes invalid.
- E. A Zoning Permit shall not be required for temporary uses, as defined herein.

Section 202 - MATERIALS REQUIRED WITH ALL ZONING PERMIT APPLICATIONS

The materials to be submitted with each application for a Zoning Permit shall indicate clearly the conditions on the site at the time of the application, the features of the site which are to be incorporated into the proposed use or building, and the appearance and function of the proposed use or building. At a minimum, the application shall be accompanied by the following:

- A. Sketch Map. The sketch map shall be drawn approximately to scale and shall indicate:
 - 1. The dimensions of the lot;
 - 2. The exact size and location of all existing and proposed buildings on the lot;
 - 3. The existing or proposed location of water and sewage disposal systems;
 - 4. Existing and proposed parking areas and driveway locations;

5. Natural water courses, drainage ways and ponds;
 6. Significant natural or environmental features such as wooded areas, rock out-cropping's, and steep slopes (more than 15%).
- B. Location map, showing the position of the property within the Town, the street address, and the nearest cross-streets.
 - C. Documentation by the Livingston County Health Department or its authorized agent that adequate water supply and sewage disposal facilities can be available to the site.
 - D. Evidence of property ownership or intent to purchase.
 - E. Evidence of approved driveway plan, as permitted by the State Department of Transpiration, County Highway Superintendent or Town Highway Superintendent, as appropriate.
 - F. License or Permit. For any use currently licensed or permitted by Federal, State, County or Town agencies, evidence of a currently valid license or permit.
 - G. Fee. The appropriate non-refundable fee established by the Town Board in its duly adopted fee schedule shall be paid and collected at the time of application.

Section 203 - ADDITIONAL MATERIALS REQUIRED WITH ZONING PERMIT APPLICATION FOR SPECIAL PERMIT USES

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

Section 204 - SITE PLAN

Site Plan Review by the Planning Board is required for all uses except for one and two family dwellings and general farming uses. Standards and procedures are specified in Article IX of this Code.

Section 205 - FEES

Permit and application fees shall be collected and paid according to the fee schedule adopted by the Town Board and in effect at the time of application. A fee schedule shall be posted at the Town Clerk's Office and available from the Zoning Enforcement Officer.

ARTICLE III – ENFORCEMENT

Section 301 - DESIGNATION OF CODE ENFORCEMENT OFFICER

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

Section 302 - DUTIES AND PROCEDURES OF THE CODE ENFORCEMENT OFFICER

- A. Review zoning permits
 1. The Code Enforcement Officer shall review all applications for zoning permits.
 2. If the CEO determines that proposed use or structure meets the minimum requirements of this Code, he/she shall issue the zoning permit. If the applicant's plans do not meet the requirements of this code, the CEO must deny the permit. He/she shall not use discretionary judgement, but must enforce the "letter of the law".
 3. If the proposed use is determined to require a Special Use Permit the Code Enforcement Officer shall forward the application with all necessary information to the Secretary of the Planning Board.
 4. An applicant who has been denied a zoning permit may appeal the decision of the Code Enforcement Officer to the Zoning Board of Appeals. If an applicant requests an appeal, interpretation, or variance, the Code Enforcement Officer shall notify the Secretary of the Zoning Board of Appeals and forward all necessary information.

- B. Upon written direction of the Zoning Board of Appeals, the Code Enforcement Officer is hereby empowered to issue zoning permits for uses or structures which have been granted variances, or favorable appeals.

- C. Upon written direction of the Planning Board, the Code Enforcement Officer is hereby empowered to issue zoning permits for Special Permit uses and uses with approved site plans.

- D. The Code Enforcement Officer shall not issue a Certificate of Compliance or Occupancy pursuant to the NYS Uniform Fire Prevention and Building code unless the structure or use conforms to plans and conditions under which the Zoning Permit was granted.

- E. Enforce the Zoning Code
 1. It shall be the duty of the Code Enforcement Officer to cause any plans, buildings or premises to be examined or inspected to determine that they are not in violation of the provisions of this code.
 2. Where the Code Enforcement Officer in the course of his/her duties, determines that any plans, buildings, or premises are in violation of the provisions of this Code, he/she shall order the responsible party, in writing, to remedy such conditions. Said written order shall specify:
 - a. The nature of the violation found to exist, citing the appropriate section of this Code;
 - b. The remedy ordered and the time permitted for such remedy;
 - c. The penalties and remedies which may be invoked by the Town;
 - d. The violator's rights of appeals;as provided for by this Code.
 3. The Code Enforcement Officer shall have the authority to obtain from the Town Justice or other court of competent jurisdiction a stop order to constrain the continuance of the violation.

- F. Records and Reports
 1. The Code Enforcement Officer shall maintain a permanent record of all matters considered and all actions taken by him/her. Such records shall be filed with the Town Clerk and shall be

- available for the use of the Town Board and other officials of the Town and available for inspection by the public.
2. The Code Enforcement Officer shall prepare a written monthly report to be presented to the Town Board, describing and enumerating actions taken and permits issued.

ARTICLE IV – ZONING BOARD OF APPEALS AND PLANNING BOARD

Section 401 - CREATION AND APPOINTMENT OF ZONING BOARD OF APPEALS

- A. A Zoning Board of Appeals (ZBA) is hereby created, pursuant to Section 267 of NYS Town Law.
- B. The Zoning Board of Appeals shall consist of five (5) members appointed by the Town Board.
- C. Members shall hold staggered five (5) year terms of office. If a vacancy shall occur otherwise than by expiration of a term, it shall be filled by the Town Board by appointment for the unexpired term.
- D. The Town Board shall appoint the ZBA's chairman.
- E. No member of the Town Board of Planning Board shall be eligible for membership on the Board of Appeals.

Section 402 - MEETING PROCEDURES

- A. All meetings of the ZBA shall be held at the call of the chairman, or at the request of three (3) or more members.
- B. The present of three (3) members shall constitute a quorum for the conduct of business before the board.
- C. All decisions shall be by a majority vote of the membership three (3), except in those cases where the County Planning Board has returned a recommendation of disapproval for an action referred to it pursuant to Section 239m of General Municipal Law. In such cases, a majority plus one (four) shall be required for approval. *See Section 414*
- D. All votes of the Zoning Board of Appeals shall be taken by roll call.
- E. In accordance with General Municipal Law, Section 809, a member of the Zoning Board of Appeals having a conflict of interest shall abstain from any discussion or voting on that matter.
- F. The Zoning Board of Appeals may request and obtain any advice or opinions on the law relating to any matter before the Board from the Town Attorney, and require the Town Attorney to attend its meetings.
- G. The Zoning Board of Appeals may require the Code Enforcement Officer to attend its meetings to present any facts relating to any matter before the Board.
- H. All meetings of the Zoning Board of Appeals shall be open to the public.
- I. The zoning Board of Appeals shall keep minutes of all its meetings. The Town Board shall provide a secretary for the Zoning Board of Appeals.

- J. The Zoning Board of Appeals shall make factual record of all its proceedings including the reading of the case, public hearing, deliberation, voting and decisions of the Board and the reasons therefore. These factual records shall be taken by stenographic and/or tape recorder means and shall be accurate but not necessarily a verbatim transcript but may be in narrative form. The factual record shall be taken by the Secretary of the Board.
- K. The Zoning Board of Appeals shall make written findings for each decision. Findings shall state the reasoning behind, the basis for, and the evidence relied on to reach the decision.

Section 403 - RULES AND EXPENSES

- A. The Zoning Board of Appeals may adopt rules or by laws for its operation.
- B. The Town Board shall provide an appropriation to the ZBA to cover necessary expenses, including those required to maintain a written record of its meetings and to hold public hearings.

Section 404 - GENERAL DUTIES

- A. Interpretation
Upon appeal from a decision by the Zoning Enforcement Officer, the ZBA shall decide any question involving interpretation of any provision of this code, including zoning map boundaries.
- B. Variances
The ZBA shall hear requests for variances, upon denial of a zoning permit by the Code Enforcement Officer, according to the procedures and standards specified in the Article, and in Section 267 of Town Law.

Section 405 - GENERAL PROCEDURES

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

Section 406 - STANDARDS FOR GRANTING VARIANCES

- A. Where carrying out the strict letter of the law would lead to unnecessary hardships, the ZBA has the power to vary or modify the provisions of this code pursuant to the standards set forth herein so that the spirit of the code shall be observed, public safety and welfare secured and substantial justice done.
- B. There shall be two (2) types of variances: AREA VARIANCES and USE VARIANCES.
 - 1. An Area Variance has no relation to a change of use. It is primarily a grant to erect, alter, or use a structure for a permitted use in a manner other than that required by this Code.
 - 2. A Use Variance permits a use of land which is not permitted by this Code.
- C. Criteria for granting area variances
The ZBA shall consider the following when deciding on applications for area variances:
 - 1. How substantial the variation is in relation to the requirement.
 - 2. The effect, if the variance is allowed, on available governmental facilities (roads, fire protection, water, sewer, etc.).
 - 3. Whether a substantial change will be produced in the character of the neighborhood or a substantial detriment to adjoining properties created.

4. Whether the need for a variance can be avoided through some other method feasible for the applicant to pursue.
 5. Whether the interests of justice will be served by allowing the variance.
- D. Criteria for granting use variances
The ZBA shall apply the following criteria when deciding on applications for use variances:
1. The land in question cannot yield a reasonable return if used only for a purpose permitted by the zoning.
 2. The plight of the owner is due to unique circumstances and not to general conditions in the neighborhood.
 3. The use sought to be authorized by the variance will not alter the essential character of the locality.
 4. The use to be authorized by the variance will not be contradictory or detrimental to the spirit or intent of the zoning district or zoning law itself, or harmful to the public good.

Section 407 - PROCEDURES FOR GRANTING A VARIANCE

- A. All applications for variances shall be in writing on forms established by the ZBA. They are available from the Code Enforcement Officer.
- B. Every application shall refer to the specific provision of the law involved and establish the details of why the variance should be granted.
- C. Upon receipt of the completed application the ZBA shall:
 1. schedule a public hearing
 2. arrange publication of notice of the public hearing as described in Section 408
 3. refer the application to the County Planning Board as required by General Municipal Law Section 239, if required. (See Section 413-414)
 4. determine whether a Draft Environmental Impact Statement should be required.
- D. Within 30 days of the public hearing, the ZBA shall render a decision. If matter was referred to the County Planning Board, a copy of the ZBA's findings and decision must be sent to the County Planning Board.

Section 408 - NOTICE OF PUBLIC HEARING

The Board shall fix a reasonable time for the hearing of appeals not to exceed 30 days from date the ZBA receives all necessary documents from the applicant and from the Town Planning Board where applicable, such as in site plan review, or not to exceed 60 days when referral to the County Planning Board is necessary.

Section 409 - CREATION AND APPOINTMENT OF A PLANNING BOARD

The Town Board authorizes the appointment of a five (or seven) member Planning Board as more fully described in Town Law Section 271. Terms of all planning board members shall be staggered as the law required.

Section 410 - OFFICERS, RULES AND EXPENSES

- A. The Town Board may select a Chairman of the Planning Board, or on failure to do so, the Planning Board shall elect a chairman from its own members.
- B. The Planning Board may adopt procedural rules or bylaws for its operation not inconsistent with this local law.

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

Section 411 - FUNCTIONS OF THE PLANNING BOARD

- A. Prepare or change a comprehensive land development plan for the Town.
- B. Review and comment on all proposed zoning amendments if requested by the Town Board.
- C. Conduct Site Plan Review as authorized by Town Law 274a and prescribed in Article IX of this Code.
- D. Review and grant or deny special permits as authorized by this Code.
- E. Render assistance to the Zoning Board of Appeals on its request.
- F. Research and report on any matter referred to it by the Town Board.
- G. Make investigations, maps, reports, and recommendations in any matter related to Planning and Development as it seems desirable providing expenditure of the Board do not exceed appropriations.
Town Law Section 275
- H. The Town Board authorizes the Planning Board to review and approve subdivisions as provided by in NYS Town Law.

Section 412 - PROCEDURES FOR SPECIAL PERMITS

- A. The Planning Board is hereby granted authority, pursuant to Section 247a of NYS Town Law, to issue special permits for uses listed in this code, subject to criteria specified in this Code.
- B. The Planning Board may also apply conditions to the special permit which are necessary to protect the general health, safety and general welfare of the community and to protect the character of the neighborhood from potential impacts of the special permit use.
- C. Procedures
 1. The Zoning Enforcement Officer shall refer the completed special permit application to the Planning Board within ten (10) days after receiving a completed application.
 2. At its next regular or special meeting, the Planning Board shall designate a public hearing date within a reasonable period of time, not to exceed forty-five (45) days from the date application was made or ninety (90) days in cases when the application must be referred to the County Planning Board in accordance with General Municipal Law, Section 239m, as described in Section 413 of this Code.
 3. The Town Planning Board shall send a notice of the public hearing to the applicant and publish a notice of the public hearing in the official newspaper, one of general circulation in the Town.
 4. The notice of the public hearing shall be sent and published at least ten (10) calendar days prior to the date of the public hearing as well as sufficient information so as to identify the property involved and the nature of the proposed action.
 5. The Planning Board shall make a factual record of all its proceedings involving the granting or denial of a special permit. The decision of the Planning Board shall contain the reasons for its decision.
 6. The Planning Board shall render its decision, either approving, approving with conditions, or denying, within forty-five (45) days after the hearing, unless an extension is mutually agreed upon.

D. Findings

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

Section 413 - REQUIRED REFERRALS TO THE COUNTY PLANNING BOARD

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

- any county
- any town
- any village
- any existing or proposed county or state park
- any right-of-way of any county or state road or parkway
- any stream or canal owned by the county
- any existing or proposed county or state owned land on which a public building or institution is situated must be referred to the County Planning Board who shall have 30 days from date of County receipt to take action on the matter. By mutual agreement of the county and the municipality such 30 day period may be extended in special cases.

Section 414 - EFFECT OF COUNTY PLANNING BOARD REVIEW

- A. If the County approves a referral, then the local board's decision is governed by a majority vote.
- B. If the County disapproves or approves subject to stated conditions or modifications, the local board may override the county opinion only by a majority plus one vote.

Section 415 - REPORT ON FINAL LOCAL ACTION

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

ARTICLE V – ZONING DISTRICTS

Section 501 - CREATION OF ZONING DISTRICTS

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

- A/R Agricultural/Residential
- HR Highway Residential
- C Commercial
- LI Light Industrial
- F Flood Hazard
- H/MU Hamlet/Mixed Use
- AD Adult Uses

Section 502 - ZONING MAP

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

Section 503 - INTERPRETATION OF DISTRICT BOUNDARIES

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

ARTICLE VI – ZONING DISTRICT REGULATIONS

Section 601 - A/R- AGRICULTURAL/RESIDENTIAL

- A. Purpose
The A/R Zoning District is intended to promote a balance of agriculture and low density residential development, along with other compatible uses.
- B. Permitted Uses
The following uses shall be permitted in the A/R District, pursuant to the regulations and standards contained in this Code.
 - 1. Agriculture and Agribusiness
 - 2. One (1) and two (2) family dwellings developed as a residential unit, which includes customary accessory uses and structures. A building permit must be filled out, signed and approved before construction may begin.The following standards and installation requirements shall apply to the placing of housing on individual building lots.
 - a. All homes will have a minimum of nine hundred (900) square feet of living space in the original design. Homes must meet New York State and local building codes as applicable. Factor-built housing which was built prior to 1976 and does not meet the Federal Department of Housing and Urban Development (HUD) standards is not permitted to locate within the Town.
 - b. All homes must include a minimum of two hundred (200) square feet *at least 7 feet high* of enclosed basement or an external garage/storage space placed adjacent to the home. These storage areas must comply with New York State and local building codes.
 - c. A garage/storage structure shall have a construction compatible with the architectural.
 - d. Manufactured housing should be installed on an adequate foundation in accordance with the requirements of the NYS Uniform Fire Prevention and Building Code. Manufactured homes must have a skirt or covering specifically designed and manufactured for manufactured homes or a foundation made of block, brick or stone.
 - e. New home construction, the siting of manufactured housing and renovations to existing homes must be approved by the Sparta Code Enforcement Officer and shall result in a structure which includes the following features:
 - 1. Acceptable residential siding of aluminum, vinyl, shingles, shakes, etc.
 - 2. A pitched roof suitable for the use of shingles, shakes, slate, tile or other appropriate roofing material.

3. High efficiency windows and other adequate insulation.
- f. The side of the housing unit facing the road shall have a minimum width of twenty four (24) feet; this requirement will help to preserve the community character and appearance along the roads.
- g. Homes must not be placed within fifty (50) feet of an existing residence and must be at least seventy five (75) feet from the centerline of the road.
- h. A temporary manufactured home which qualifies for inclusion in a Manufactured Home Park may be sited on a working farm in an agricultural district for the use of farm workers who are not related to the farm owners/operators. The home shall be removed from the property when it is no longer being used by farm workers.
- i. Any addition to a home must be approved by the Sparta Code Enforcement Officer.
- j. Manufactured housing which was built after 1976, meets HUD standards but has less than nine hundred (900) square feet of living space may be placed in a Manufactured Housing Park.
3. Recreation areas, including but not limited to parks, playgrounds, athletic fields, golf courses and riding stables.
4. Seasonal roadside stands/displays.
Roadside stands/displays shall be permitted for the sale of produce or agricultural products primarily grown or produced in the Town of Sparta.
5. Home occupations, including professional offices within a home.
Home offices shall be permitted for activities such as hair dressing, laundering, television and radio repair, lawn mower and bicycle repair, and other uses which the Board of Appeals determines to be similar in scale and nature. Home offices are considered to be a home occupation and shall be permitted for professions such as a doctor, dentist, veterinarian, lawyer, architect, accountant, broker, surveyor, or other profession which the Board of Appeals may determine to be eligible for establishing an office in conjunction with the home. The Code Enforcement Officer shall request an interpretation from the Board of Appeals before issuing a Zoning Permit for any home occupation not listed above.

The following requirements shall apply to all home occupations:

- a. No person other than a member of the immediate family occupying such dwelling shall be employed as part of the home occupation.
- b. A home occupation must be conducted within a dwelling which is the bona fide residence of the principal practitioner or in an accessory building thereto which is normally associated with a residential use.
- c. No more than twenty-five (25) percent of the gross floor area of such residence shall be used for the conduct of a home occupation. No more than forty (40) percent of the floor area of an accessory structure shall be used for a home occupation. *Except garages*
- d. In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or the emission of sounds, noises, or vibrations.
- e. No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home associated with a hobby or avocation not conducted for gain or profit or machinery or equipment which is essential in the conduct of the home occupation.
- f. No outdoor display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.
- g. One (1) sign shall be permitted not to exceed 2' x 2" dimension. There shall be no use of utilities or community facilities beyond that normal to the use of the property for residential purposes.
- h. One (1) commercial type vehicle may be used in connection with the home occupation and be parked on the property.

- i. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.
- j. A home occupation shall not be interpreted to include the following: commercial stables and kennels, restaurants, musical and dancing instruction to groups exceeding four (4) pupils, convalescent homes, mortuary establishments, garages or shops for the repair of motor vehicles and other trades and businesses of a similar nature.

C. Special Permit Uses

The following uses shall be permitted, provided the standards specified in Article VII are met in addition to other requirements of this Code. A Special Permit shall be required from the Planning Board, pursuant to procedures specified in Section 412 of this Code.

1. Airports *See Section 801*
2. Campgrounds *See Section 802*
3. Clubs, lodges, or fraternal organizations *See Section 803*
4. Day care centers *See Section 804*
5. Essential services *See Section 806*
6. Excavation and mining operations *See Section 807*
7. Farm labor camps *See Section 808*
8. Kennels and animal hospital *See Section 810*
9. Manufactured home parks *See Section 811*
10. Multiple family dwellings *See Section 812*
11. Motor vehicle service stations *See Section 814*
12. Hospital, nursing home, or health related facility *See Section 817*
13. Telecommunication towers and related facilities *See Section 818*
14. Sawmills *See Section 819*
15. Additional standards *See Section 820*
16. Professional office buildings for the use of physicians, dentists and veterinarians who are licensed by the State of New York but excluding home offices (see Sec. 601 (B)(5))
17. Adult uses *See Section 608*
18. Other uses determined by the Zoning Board of Appeals to be related or similar in nature to those listed above.

D. Temporary placement of structures during construction of a house. The Zoning Enforcement Officer is authorized to issue a permit for the placement of a construction trailer during construction of a house on the same lot. The following conditions must be met:

1. The Zoning Enforcement Officer will approve the proposed location of the construction trailer.
2. The permit shall be valid for a one-year period. No extensions are permitted.
3. The construction trailer must be removed prior to the issuance of a Certificate of Occupancy for the house.

E. Area specifications

1. Minimum lot size --- 60,000 sq. ft.
2. Minimum lot width at front building line --- 200 ft.
3. Minimum setbacks:
 - Front --- 75 ft. *measured from center of road*
 - Side --- 10 ft.
 - Rear --- 20 ft.
4. A larger minimum lot size shall be required when the County Health Department determines, after reviewing soils and perc test data, that a larger lot size is necessary for adequate operation of an onsite sewage disposal system.

5. Small lot sizes may be permitted as part of a cluster subdivision, pursuant to Sec. 281 of NYS Town Law. In no case shall the overall density of a clustered subdivision exceed that which would be permitted with a conventional subdivision design.
6. The minimum frontage along a public road shall be 50 feet. Flag shaped lots are permitted.
7. If a dwelling requires a long driveway (over 200 ft. from a public road), a special use permit is required, subject to the criteria in Sec. 817 of this Code.

Section 602 - HR-HIGHWAY RESIDENTIAL

A. Purpose

The HR Highway Residential District is intended to provide more restrictive land development standards along the main thoroughfares in the Town of Sparta. Such restrictions are intended to maintain the capacity of main highways to accommodate high speed through traffic and to provide a low density residential zone which maintains views of open land from main highways.

B. Permitted uses

All uses permitted in the A/R zone shall be permitted in the HR zoning district except for homes less than twenty (20) feet wide. This requirement is needed to preserve the community character and appearance along the town's major roads.

C. Special permit uses

All uses allowed by special permit in the A/R zoning district shall be allowed by special permit in the HR zoning district, except that manufactured home parks, excavations and mining, telecommunication towers and above-ground public utility buildings and substations are not permitted.

D. Area specifications

1. Minimum lot size ----- 108,900 sq. ft.
2. Minimum road frontage ----- 250 ft.
3. Minimum setbacks:
 - Front --- 75 ft. (measured from centerline of road)
 - Side --- 10 ft.
 - Rear --- 20 ft.
4. If a dwelling is located further than 200 feet from the road, a special permit for a long driveway is required, subject to the criteria in Section 817 of this Code.

Section 603 - LI-LIGHT INDUSTRIAL

A. Purpose

The purpose of this district is to provide for the establishment of industrial uses essential to the development of a balanced economic base and to regulate its development so it will not be detrimental or hazardous to the surrounding community.

B. Permitted principal uses

1. Any use of a light industrial nature permitted, provided that at no time will such use result in or cause:
 - a. Dissemination of dust, smoke, smog, observable gas, fumes, or odors, or other atmospheric pollution, objectionable noise, glare or vibration or electrical interference.
 - b. Hazard of fire or explosion or other physical hazard to any adjacent building or to any plant growth on any land adjacent to the site of the use.
2. The following uses are indicative of those which are intended to be permitted.
 - a. Manufacture of machinery such as, but not limited to small machine parts, office and household machinery, tool and die products, etc.

- b. Fabrication of metal products like but not limited to sheet metal products and furnishings, etc.
- c. Fabrication of paper products such as but not limited to packaging material, office and household supplies, stationery, toys, etc.
- d. Fabrication of wood products such as but not limited to boats, boxes, home cabinets and woodworking, furniture and toys, etc.
- e. Food and related industries such as but not limited to bakeries, bottling of food sundry manufacturing, etc.
- f. The manufacturing and processing of pharmaceutical and cosmetic products.
- g. The manufacturing and processing of plastics, chemical products, and textiles.
- h. Plant nurseries, including retail and wholesale distribution.
- i. Office buildings for executive, engineering and administrative purposes.
- j. Scientific or research laboratories devoted to research, design and/or experimentation and processing and fabricating incidental thereto.
- k. The warehousing or storage of goods and products such as building materials, farm supplies, and the like, which may be sold from the premises to the general public. The bulk storage of fuel for resale is specifically excluded from the intent of the above.
- l. Airports and related general aviation industrial operations including maintenance shops.

C. Permitted accessory uses

- 1. Private garage and storage buildings which are necessary to store any vehicles, equipment or materials on the premises.
- 2. Signs *in accordance with Section 701 of this Code*
- 3. Parking *in accordance with Section 702 of this Code*

D. Other provisions and requirements

- 1. Each use established in this zone shall set aside a minimum of fifteen (15) percent of the tract for seeding and landscaping and use this area for no other purpose.
- 2. All industrial processes shall take place within an enclosed building. Incidental storage of materials out of doors shall be permitted. Industrial uses shall be located so as to be a minimum of twenty-five (25) feet from any property line abutting a non-industrial district. This twenty-five (25) foot buffer strip shall be perpetually maintained with landscape plant material to provide a visual screen between the industrial use and the adjoining non-industrial use. Said buffer strip to be exclusive of required yard setbacks as prescribed in the Schedule 608.2.
- 3. All buildings housing a use permitted only in an I (Industrial) district shall be located at least one hundred (100) feet from any other district, with the exception of an I-2 district.

Section 604 - C-COMMERCIAL

A. Purpose

The purpose of the Commercial Zoning District is to provide for business establishments serving the needs of area residents, especially retail and service businesses. Permitted uses are intended to create a business district free from conflicting land uses.

B. Permitted uses

- 1. Business services, including warehousing and storage
- 2. Retail and wholesale businesses
- 3. Restaurants
- 4. Business and professional offices
- 5. Hotels and motels
- 6. Other business and commercial uses which, as interpreted by the Zoning Board of Appeals, are similar in nature and scale to those permitted above.

- C. Permitted accessory uses
 1. Uses and structures customarily incidental to permitted uses and structures.
 2. Private garage space for the storage of commercial vehicles used in conjunction with a permitted business use.
 3. Off-street parking, loading and unloading facilities subject to the provisions of Section 702 of this Code.
 4. One (1) sign shall be permitted per business for each street and parking area upon which said use fronts. Said sign shall not exceed twenty (20) square feet.

- D. Uses permitted with a Special Use Permit

The Planning Board shall grant a Special Use Permit for the following uses, provided that the conditions specified in Article VII of this Code are met.

 1. Clubs, lodges or fraternal organizations *See Section 803*
 2. Day care center *See Section 804*
 3. Drive-in restaurants *See Section 805*
 4. Essential services *See Section 806*
 5. Hotels and motels *See Section 809*
 6. Kennels and animal hospitals *See Section 810*
 7. Motor vehicle repair stations *See Section 813*
 8. Retail gasoline outlet which may include convenience store *See Section 815*

- E. Setback from residential zones

No commercial structure shall be permitted within fifty (50) feet of the nearest lot line of any residential district.

- F. Area requirements

Setbacks:

 - Front --- 75 ft. measured from centerline of road
 - Side --- 15 ft.
 - Rear --- 20 ft.
 - Building Height --- 35 ft.
 - Lot width at front building line --- 100 ft.
 - Minimum lot size --- 20,000 sq. ft.

Section 605 - F-FLOOD HAZARD OVERLAY DISTRICT

- A. The boundaries of the Flood Hazard District shall coincide with the Flood Insurance Rate Map published by the Federal Emergency Management Administration. The regulations of this district shall be in addition to those of the underlying zoning district. The provisions of this District shall take precedence over any other zoning article, ordinance or code to the extent that the provisions of this zone are inconsistent with such other provisions.

- B. Purpose

The purpose of the Flood Hazard District (F) is to protect human life and health, minimize property damage, minimize surface and groundwater pollution, and provide public awareness of the flooding potential.

- C. Applicability

These regulations apply to all areas of special flood hazard zones within the jurisdiction of the Town of Sparta. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Code does not imply that areas outside district boundaries or land uses permitted within such districts will be free from flooding or flood damages.

D. Permitted uses

Permitted uses shall be specified by the underlying zoning district

E. Special Provisions

Any development or substantial improvement within an F District shall meet the requirements contained in Local Law #1-1987, "Flood Damage Prevention Law", adopted on March 11, 1987, as such law may be amended from time to time, in addition to those otherwise applicable to it under this Code.

Section 606 - OVERLAY ZONES

A. Intent

The purpose of this land conservation section is to delineate and help to protect areas in the town where substantial development of the land, including buildings or structures, may cause ecological harm or unusual conditions of topography, drainage, soil permeability, floodplain or other natural conditions, and the lack of proper facilities or improvements resulting in the land not being suitable for development at the present time.

B. Derivation

Land conservation areas in the town have been derived generally on the basis of soils and existing land use studies and data and have been mapped to identify steep slopes. The mapped conservation areas are official supplemental guides to the zoning map to be used by the town in ascertaining what special conditions, if any, should be imposed or precautions taken before allowing development to proceed.

C. Procedure for processing zoning permits using conservation area maps

Whenever an application is made for a zoning permit in the Town of Sparta, the Zoning Enforcement Officer shall proceed as follows:

1. Identify the approximate location of the proposed building site in the town and check to see if the site is situated in one of the mapped conservation areas.
2. If the applicant's property is found to be located well outside of any identified conservation area shown on the supplemental map, the Zoning Enforcement Officer may issue a Zoning Permit, provided that all other requirements and conditions of this chapter are met.
3. If the applicant's property is found to be located completely or partially within one of the mapped conservation areas or bordering thereon, the Zoning Enforcement Officer shall accompany the applicant to the site to confirm the exact location and existing physical conditions.
4. If the Zoning Enforcement Officer confirms the location of the proposed use within any of the conservation districts, the Zoning Enforcement Officer shall label the application as a special use and submit it to the Planning Board.

D. Conditions for approving site plan

The Town Planning Board shall base site plan approval in a conservation district on the applicant's meeting the conditions listed below, where applicable:

Steep slope

The site plan must be prepared by a licensed architect, landscape architect or engineer. Plans must adhere to the following guidelines, at a minimum.

- a. Architectural design of the house or structure shall be such as to minimize the amount of cutting into the embankment, general grading, and removal of vegetative cover. This shall generally mean designing a rectangular-shape structure which can be placed parallel to the contour of the hill and/or designing a cantilevered structure for maximum exposure above the ground.

- b. Location of driveway, walkway, accessory buildings and structures and general grading shall conform to the same overall objective stated in paragraph (a) above.
- c. Terracing, sodding, planting and the construction of retaining walls shall be performed as found necessary.
- d. Development plans shall conform to standards contained in the New York Guidelines for Urban Erosion & Sediment Control, published by the Empire State Chapter, Soil & Water Conservation District.

Section 607 - HAMLET/MIXED USE DISTRICT

A. Boundaries and purpose

The boundaries are defined by the Town of Sparta Official Zoning Map. The purpose of the Hamlet/Mixed Use District is to recognize those specific areas within the town where different uses do and can coexist with little or no impact to the neighborhood character. Historically, in those hamlet areas, residential uses were adjacent to “small scale” commercial retail/professional uses. The intent is to provide areas within the town to accommodate the sales and service establishments necessary to serve the residents of the town while also encouraging the use of existing structures, preserving the historic characteristics of the hamlet areas, and encouraging the design of new construction to be compatible with the existing buildings and neighborhood characteristics.

B. Permitted uses

Those uses specified in the Zoning Schedule as Permitted Principal Uses in the A/R (Ag/Residential) and C (Commercial) zones.

C. Special permitted uses

Those uses specified in the Zoning Schedule as Special Permit Uses in the A/R (Ag/Residential), H/R (Highway/Residential) and C (Commercial) zones.

D. Prohibited uses

Sawmills are specifically prohibited in this zoning district

E. Area width and yard requirements

	Minimum Area (Square Feet)	Minimum Width (Feet)
1. With public water and sanitary sewer		
a. Single family dwelling -----	12,000	90
b. Two family dwelling -----	20,200	100
2. With public water only -----	43,560	150
3. With no public water services -----	60,000	200
4. Lot coverage		
Maximum lot coverage for residential dwellings, including structures and all impermeable surfaces, shall not exceed 35% of the parcel.		
5. Yard setback requirements		
a. Front yard -----	30 feet	
b. Rear yard -----	50 feet; accessory structures may be located within 10 feet	
c. Side yard -----	10 feet	
6. Flag lot requirements		
a. Minimum lot area to be in conformance with the area of standard lots in the zone where located, exclusive of the “flagstaff” connecting the lot to the public road;		
b. Minimum setbacks are measured from the property lines, again exclusive of the “flagstaff”;		
c. Frontage on the public road shall be no less than fifty (50) feet;		
d. Single residence driveway shall be no less than twelve (12) feet in width with a compacted road base per residence.		

- e. If more than one residence then the driveway shall be no less than twenty (20) feet with a compacted road base per residence.
 - f. All utilities shall be placed underground.
 - g. "Flagstaff" shall be part of a lot and not an easement.
- F. Building bulk limitations
Maximum building height two and one half (2-1/2) stories or thirty-five (35) feet, excluding church spires, chimneys, and radio and TV antennas.
- G. Commercial/Retail/Professional use
During a site plan review of parcels located within the Hamlet/Mixed Use District, the Planning Board reserves the right to require the developer to show that the site plan proposal is in harmony with the aesthetic features of the existing structures located in those districts.
- 1. Lot size
Required lot size shall be established by the Planning Board during the site plan review and approval process. The required minimum lot size shall be based on the amount of land area necessary to adequately accommodate the proposed principal and accessory uses and associated parking, loading and planted open space areas, while respecting setback requirements and on-site circulation needs, including pedestrians, vehicles and emergency vehicles. If the lot size cannot be made to meet the applicable standards of the proposed use for circulation, parking, landscaping, lot coverage and setbacks, the Planning Board may require a reduction in the scale or intensity of the use or the combination of principal and accessory uses and/or conditionally permitted uses before taking action on the site plan.
 - 2. Lot coverage
Maximum lot coverage including all buildings and impermeable surfaces shall not exceed 50% of the lot area.
 - 3. Minimum lot width
100 feet
- H. Off-street parking requirements
Two (2) off-street parking spaces shall be provided for each dwelling unit.

Section 608 - ADULT USES

- A. Purpose and intent
It is recognized that buildings and establishments operated as adult uses have serious objectionable operational characteristics. In order to promote the health, safety and general welfare of the residents of the Town of Sparta, this article is added to the Town of Sparta Zoning Law. It is intended to restrict adult uses to certain nonresidential areas of the Town of Sparta and otherwise regulate their operation. This article is intended to promote the health, safety and welfare of the residents of the Town of Sparta by regulating the concentration of such uses and shall be included in the Town of Sparta Zoning Law as the Adult Uses article.
- B. The Constitution and laws of the State of New York grant to the Town of Sparta powers to enact reasonable legislation and measures to regulate and supervise adult entertainment establishments in order to protect the public health, safety and welfare.
- C. It is not the intent of the Town of Sparta in enacting this article to deny to any person rights to speech protected by the United States and/or State Constitutions, nor is it the intent of the Town of Sparta to impose any additional limitations or restrictions on the contents of any communicative materials, including sexually oriented films, video tapes, books and/or other materials. Further, by enacting this article, the Town of Sparta does not intend to deny or restrict the rights of any adult to obtain and/or view any sexually oriented materials protected by the United State and/or State Constitutions,

nor does it intend to restrict or deny any constitutionally protected rights that distributors or exhibitors of such sexually oriented materials may have.

D. Definitions

As used in this article, the following terms shall have the meanings indicated. Note: These definitions are to include any type of business(es) or combination of business(es) where specified anatomical areas are displayed or specified sexual activities are encountered.

ADULT BOOKSTORE: An establishment or business, whether retail or wholesale, having as a substantial or significant portion of its stock-in-trade books, magazines and other periodicals, films and viewing materials for sale or viewing on premises by use of motion-picture devices or any coin-operated means, including video tapes and props and toys, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment or business containing a segment or section devoted to the sale or display of such material.

ADULT CABARET: A business enterprise which serves food or beverages for consumption on the premises, with or without carry-out service, which features entertainers or waiters and/or waitresses who display any specified anatomical area or who depict, describe or simulate specified sexual activities.

ADULT ENTERTAINMENT CABARET: A public or private establishment that presents topless dancers, strippers, male or female impersonators or exotic dancers, or other simulate entertainment.

ADULT MOTION-PICTURE THEATER: An enclosed building or structure or portion of a building or structure used for presenting materials having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT USE: An adult bookstore, adult cabaret, adult entertainment cabaret, adult motion-picture theater, massage establishment, body-rub establishment, peep show or any other business(es) where specified anatomical areas are displayed or specified sexual activities are encountered.

BODY RUB ESTABLISHMENT: Any establishment having a fixed place of business where body rubs are administered for pay.

MASSAGE ESTABLISHMENT: Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home or medical clinic; or the office of a physician, surgeon, chiropractor, osteopath or duly licensed physical therapist; or barbershops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders. This definition also shall exclude health clubs which have facilities for physical exercise, such as tennis courts, racquetball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages. Such establishments are not prohibited, provided they have a duly licensed massage therapist on the premises.

PEEPSHOWS: A theater that presents material in the form of live shows, films or videotapes, viewed from an individual enclosure and that charges a fee and that is not open to the public generally.

SPECIFIED ANATOMICAL AREAS: Less than the completely and opaquely covered human genitals, pubic region or female breast below a point immediately above the top of the areola. Human male genitals in a discernible turgid state even if completely opaquely covered.

SPECIFIED SEXUAL ACTIVITIES: Human genitals in a state of sexual stimulation or arousal. Acts of human masturbation, sexual intercourse, sodomy or bestiality. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

SUBSTANTIAL CONNECTION: In a sole proprietorship, an individual who owns, operates, controls or conducts, directly or indirectly, any premises, building or location upon which any adult use takes place. In a partnership, limited or general, an individual who shares in any potential profits or losses of the business or who shares in the ownership of any of the assets of the partnership business. In a corporation, an individual who is an officer, director or a holder, either directly, indirectly or beneficially, or more than 20% of any class of stock. Any person who furnishes more than 20% of the capital financing or assets of such business, whether in cash, goods or services.

E. Restrictions

Adult uses are restricted to the adult use (AD) zone as specified on the official zoning map and are conditionally permitted. The following additional regulations apply.

1. The adult bookstores, adult cabarets, adult entertainment cabarets, adult motion-picture theaters, adult motel massage establishments, body rub establishments and peep shows or any other adult use governed by these provisions shall be allowable only for properties located in the areas zoned (B) Business District and subject to the requirements herein established.
2. No more than one (1) of the uses governed by these provisions shall be permitted on any single qualifying building lot in the Town of Sparta.
3. All adult uses, adult bookstores, adult cabarets, adult entertainment cabarets, adult motion-picture theaters, adult motels, massage establishments, body-rub establishments and peep shows, with the exception of the permitted signs, landscaping and off-street parking, shall be conducted in an enclosed building, regardless of location or distance, no one who is passing by an enclosed building having a use governed by these provisions shall be able to see any specified anatomical are or any specified sexual activity by virtue of any act or display that depicts or shows said area or activity. This requirement shall apply to any display, decoration, sign, window or other opening.
4. A person who knowingly owns, manages, operates, conducts or maintains any of the uses governed by these provisions in any manner which is contrary to these regulations shall be subject to prosecution under letter (L), penalties for offenses, of this article.
5. No such establishment as defined in this law shall employ any individual(s) below the age of eighteen (18) years.

F. Registration

No person, firm, corporation or other entity shall lease, rent, maintain, operate, use or allow to be operated or used by any business or establishment, any part of which contains an adult use, without first complying with the provisions of this section as set forth below:

1. In addition to the completion of the short EAF (Environmental Assessment Form) and any and all other necessary licenses and permits, no form or adult use shall be allowed to operate or continue to operate until a certificate of registration in the form of a Special Use Permit issued according to the procedures set forth herein for such permit by the Town of Sparta. Such permit shall be issued and filed with the Town Clerk. Upon approval to issue, the Special Use Permit *aka, Certificate of Registration* shall contain:
 - a. The name and address of the business or the establishment subject to the provisions of this article.
 - b. The names, business and home addresses and business or home phone numbers of all owners of the business or establishment subject to the provisions of this article.

- c. The names, business and home addresses, and business or home phone numbers of all those persons having a substantial connection with the business or establishment subject to the provisions of this article.
 - d. The date of the initiation of the adult use.
 - e. The exact nature of the adult use.
 - f. If the premises or the building in which the business containing the adult use is located is leased, a copy of the lease, name of the tenant and name, address and telephone number of the property owner shall be provided.
 - g. The applicant shall also submit a plan drawn to appropriate scale of the premises proposed for registration indicating the areas to be covered by the registration, all windows, doors, entrances and exits and the fixed features of the proposed registered premises. The term "fixed features" shall include walls, stages, immovable partitions, projection booths, admission booths, concession booths and stands, immovable counters and similar appurtenances that are intended to be permanent.
 - h. The applicant shall state all criminal convictions, the nature of such convictions(s), if any, and locations(s) where activity occurred.
2. If any change occurs in the information required for the process or the certification of registration, the Town Clerk shall be notified of such change and a new, or amended, certificate filed within thirty (30) days of such change.
 3. The processing fee for such certificate of registration as listed in the Town's Schedule of Fees, which shall be issued as a Special Use Permit, and renewed annually, shall be payable to the Sparta Town Clerk annually. Any amendment to an existing Certificate of Registration shall constitute a fee of \$50.00 payable to the Sparta Town Clerk at time of filing.
 4. No Certificate of Registration issued under the provisions of this article shall be transferable to any person other than the registrant, nor shall a Certificate of Registration be transferable for use at any premise(s), building(s) or location(s) other than stated in the Certificate of Registration.
 5. In regards to change of name or address, a registrant may not move the registered adult use to a new location or a new registrant without first following the same procedure for the issuance of a new registration and the payment of the application fee. The registrant shall submit to the Town Clerk an application for a change of location, or registrant, accompanied by the Special Use Permit application fee.
 6. The owner, manager or agent of any adult use shall cause a copy of the Certificate of Registration issued under the provisions of this article to be prominently displayed at all times on the premises, building or location for which it is issued.
 7. Any knowingly false statement or any statement which the registrant or applicant should reasonable have known to be false which is provided in the Certificate of Registration or any document or information supplied therewith shall be grounds for denial, rejection, suspension or revocation of the Certificate of Registration.
 8. It is a violation of this article for the owner or person in control of any property to establish or operate thereon or to permit an adult use without having in force and displayed a Certificate of Registration complying with this section.
 9. No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not registered as an adult use. This provision shall apply to any display, decoration, sign, show window, screen or other opening on any structure or portion of the property.

G. Registration approval process

1. Upon the completion of the investigation of an application by the Code Enforcement Officer (CEO), and any additional police agency required by the CEO, the CEO shall submit a written recommendation for approval or disapproval along with the application to the Town of Sparta Planning Board to initiate the Special Use Permit process.

2. If approved, the Town Clerk shall notify the applicant and issue the Certificate of Registration upon the payment of the registration fee.
3. If disapproved, the CEO shall indicate the reason(s) for the disapproval either on the application, or in a separate attached written document. The CEO shall inform the applicant of the disapproval. Notification of disapproval shall be by certified mail and shall be sent to the address on the registration application, which shall be considered to be the correct address and meet requirements for complete and sufficient notice.

H. Term of registration

1. All registration(s) issued under this article shall be classified as annual registration(s) that shall be paid for on or before October 1st and shall expire on September 30th of the following year. A registrant beginning business after October 1st and before April 1st may obtain a new registration upon application thereof and the payment of the appropriate annual registration fee, and such registration shall expire on the following September 30th. A registrant beginning business after March 31st and before October 1st, may obtain a new registration upon application thereof and the payment of one half (1/2) of the appropriate annual registration fee herein required, and such registration shall expire on September 30th of the same year. The provisions of this section shall not affect any other provisions of the regulation.
2. A registrant under this section shall be entitled to a renewal of the annual registration from year to year, as a matter of course, on or before October 1st by presenting the registration for the previous year or satisfactory evidence of its loss or destruction to the Town Clerk and by paying the appropriate registration fee. It shall also be required at this time that the registrant provide a copy of a current New York State Fire Inspection form issued by the Code Enforcement Officer showing that the establishment is in total compliance with all the codes.

I. Denial of registration

A new or renewal application for registration shall be denied:

1. When the applicant or any of the other individuals listed as having an interest in the establishment have had their registration previously suspended or revoked or have been a partner in a partnership or an officer, director or principal stockholder of a corporation whose registration has previously been suspended or revoked.
2. When any false statement is made on the application for registration.
3. When the applicant or partner in a partnership or an officer, director or principal stockholder of a former or existing corporation or the corporation itself has been convicted of a criminal act in this state or any other state within five (5) years immediately preceding the date of the application.
4. Any new corporation formed by an officer, directors or principal shareholders of a corporation that has been convicted of a criminal act in this state or any other state within five (5) years immediately preceding the date of the application.

J. Revocation of registration

The Certificate of Registration issued under this article shall be revoked immediately if the applicant or partner, officer or principal stockholder of a former or existing corporation or the corporation itself is convicted of a criminal act in this state or any other state during the certificate's span of issuance.

K. Provisions declared to be minimum requirements

In the interpretation, application and enforcement of the provisions of this article, the provisions thereof shall be held to be minimum requirements necessary for the protection of the health, safety and general welfare of the residents and citizens of the Town of Sparta.

L. Penalties for offenses

Any person who violates any provision of this article or any regulation adopted hereunder is guilty of an offense punishable by a fine up to five thousand (\$5,000) or imprisonment for a period up to thirty (30) days, or both. Each day the violation continues shall constitute a separate violation.

ARTICLE VII-REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS

Section 701 - SIGNS

- A. Signs shall be permitted only according to standards listed below unless otherwise stated in this Code.
- B. General standards
1. No sign shall consist of lights which flash or move or appear to move.
 2. No sign shall be higher than the principal building to which it is accessory.
 3. No sign shall project into a public right-of-way.
 4. No sign shall be erected on a public utility pole or traffic control structure.
 5. All existing signs at the time of the enactment of this Code shall be allowed to remain as long as they are properly maintained and their use remains current.
 6. Temporary unlighted signs erected by individuals and by and for non-profit organizations such as Churches, American Legion, Boy Scouts, political organizations, etc. advertising suppers, banquets, benefits, fund raising sales, etc. may be erected for a forty (40) day period without permit in any district, provided that the sign will not constitute a traffic or safety hazard and shall be removed within forty-eight (48) hours after the advertised event. Failure to so remove shall constitute a violation by both the organization sponsoring the event and the person(s) who placed the signs.
 7. One sign is permitted per lot, not to exceed twenty (20) square feet per side (except as otherwise specified in this Code). Traffic direction signs are excluded.

Section 702 - PARKING

- A. This section is designed to reduce problems caused by inadequate or poorly designed parking facilities.
1. All uses shall provide adequate off-street parking for all vehicles parked during typical peak use periods. Parking should be designed to eliminate the need to back out or to park on the shoulder of public roads.
 2. A violation shall occur if there is parking on off-site areas neighboring property or road right-of-ways more than three (3) times during one (1) month.
 3. A parking space shall be not less than 10'x20' exclusive of access ways and driveways. Single family residences need not exclude driveway area.
 4. Off-street parking areas for non-residential uses shall provide access lanes to parking spaces. Parking areas for fifty (50) or more vehicles shall delineate fire lanes which include no parking markers. Access drives for business or industrial uses which pass through a residential zoning district shall not be permitted.
- B. Minimum parking standards
- Minimum standards supplementary to the basic standard cited above are as follows:
1. One parking space for every three (3) seats in a public meeting place.
 2. One parking space for each employee at places of employment and one parking space per two hundred and fifty (250) square feet of gross floor area in a commercial establishment unless otherwise specified herein.

3. One parking space for every two hundred (200) square feet of gross floor area in a commercial establishment unless otherwise specified herein.
4. One parking space for every one hundred (100) feet of gross floor area in supermarkets and self-service food stores.

Section 703 - FENCES

No solid fence hedge or shrubbery shall cause obstruction to vision at street intersections, nor constitute a traffic or safety hazard.

Section 704 - CAMPING TRAILERS

Camping trailers shall not be occupied on an overnight basis except at an approved camping ground, or, with the consent of the owner, for a period not to exceed fourteen (14) days on private land provided all health standards are met.

Section 705 - STATE ENVIRONMENTAL QUALITY REVIEW (SEQR)

A. The State Environmental Quality Review Act required that local government examine the environmental impact of all actions they permit, fund, or construct. Article 8 and Part 617 of Title 6 of the New York Code of Rules and Regulations are hereby adopted by reference.

B. All actions (8 NYCRR Part 617) shall require the submission and review of an Environmental Assessment Form.

C. For zoning action reviewed by the Town, the following bodies shall be lead agency, unless otherwise delegated by the Town Board.

Zoning Text Amendments	-	Town Board
Zoning District Amendment	-	Town Board
Special Permits	-	Planning Board
Variances	-	Zoning Board of Appeals
Site Plan	-	Planning Board

D. If, in the opinion of the local lead agency, after review of the Environmental Assessment Form, there appears the potential for a significant environmental impact, the lead agency shall cause the applicant to prepare a Draft Environmental Impact Statement as part of the application. Review, notice and action on the EIS shall be conducted according to Part 617 of 8 NYCRR.

Section 706 - CORNER LOTS

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

Section 707 - NON-CONFORMING USES, LOTS, STRUCTURES

Lots, structures, uses of land and structures and characteristics of use which lawfully existed at the time of the enactment of these regulations and which would be prohibited or restricted under the terms of these regulations may be continued subject to the following provisions.

A. Intent

It is the intent of these regulations to permit non-conforming uses, lots and structures, to continue until they are removed, but not to encourage their survival.

B. Enlargement

No non-conforming uses or structures shall be enlarged or increased, nor extended to occupy a greater area of land or structure thereon than was occupied at the effective date of the adoption of these regulations except as allowed under Paragraph E.

- C. Unsafe structures
Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition.
- D. Alterations
A non-conforming structure may not be reconstructed or structurally altered to an extent exceeding in aggregate cost 50 percent of the full value of said structure, unless the structure shall be changed to a conforming use. In addition, pursuant to paragraph B above, such reconstruction or alteration shall not occupy a greater area of land.
- E. Replacement of homes
In both the A/R Zone and the HR Zone, a non-conforming home may only be replaced with a home which meets the requirements specified for new construction. *See Section 601*
- F. Restoration
No non-conforming structure damaged by fire or other causes to the extent of more than seventy-five (75) percent of its full value shall be repaired or rebuilt except in conformity with the requirements of these regulations.
- G. Discontinuance
Whenever a non-conforming use has been discontinued for a period of one (1) year, such use shall not thereafter be re-established and any future use shall be in conformity with the provisions of these regulations.
- H. Changes
Once changed to a conforming use, no structure or land so changed shall be permitted to revert to a non-conforming use. No non-conforming use shall be changed or enlarged to include any other type of non-conforming use.
- I. Displacement
No non-conforming use shall be extended to displace a conforming use.
- J. Moving
Should any structure be moved for any reason for any distance, it shall thereafter conform to the requirements for the district in which it is located after it is moved.
- K. Existing undersized lots of record.
- L. Subdivision
No conforming lot shall be subdivided into one (1) or more non-conforming lots.
1. Any recorded lot held in single and separate ownership prior to the adoption of these regulations and whose area and/or width and/or depth are less than minimum requirements specified herein for the district, may be considered as complying with these regulations and no variance therefore shall be required, provided that:
 - a. Such lot does not adjoin any other lot or lots held by the same owner, the aggregate area of which lots is equal to or greater than the minimum lot area required for that district.
 - b. The minimum yard requirements set by these regulations are met.
 2. In any district where residences are permitted, such undersized non-conforming lots may be used for not more than one (1) single-family dwelling.
 3. A lot of non-conforming size may be subdivided if each and every subdivision of such lot is purchased by the owner or owners of the adjoining properties to increase the size of said owner's property.

Section 708 - PINBALL AND VIDEO GAME ARCADES

- A. Pinball and video game arcades shall not be permitted as home occupations.
- B. Arcades shall be closed between the hours of 12:00 midnight and 8:00 AM.
- C. No one under the age of sixteen (16) shall be permitted in an arcade during the hours school is in session.

Section 709 - ALTERNATE ENERGY SYSTEMS

This section is intended to reduce impacts on neighboring property owners and health and safety problems which may accompany alternate energy systems.

- A. All wind energy towers shall be located so as to allow an open zone around the tower on the owner's property and of a radius at least equal to the height of the tower.
- B. All appurtenant electrical equipment shall cause no undue interference or noise.
- C. Windmill blades shall clear the ground at their lowest point by at least ten (10) feet.
- D. Solar panels shall be installed within the structure of the house, where feasible. Detached solar panels shall be located in the rear yard and subject to the setback requirements for accessory buildings.

Section 710 - ACCESS ONTO PUBLIC ROAD

No building permit shall be issued for development of property that is not reasonable accessible to emergency vehicles. See *Section 817: Long driveways* for additional requirements.

Section 711 - JUNKYARDS

Junkyards must be licensed by the Town Board, according to provisions in Local Law #2 of 1991, adopted pursuant to NYS General Municipal Law Section 136 and NYS Municipal Home Rule Law.

ARTICLE VIII - CRITERIA FOR GRANTING SPECIAL PERMITS

The planning Board shall grant Special Use Permits where the application demonstrates that the proposed use meets the conditions specified in the Zoning Law and will not adversely affect the surrounding area or the health, safety and general welfare of the Town. The following specifications shall be applied to all applications for special permits in addition to zoning district regulations and other requirements of this Code.

Section 801 - AIRPORTS *includes private landing strips*

An application for the establishment, construction, enlargement or alteration of an airport shall include, in addition to requirements for Special Use Permits outlined in Section 412, the following statements and information:

- A. Name and address of the proponent.
- B. Classification of the proposed airport (commercial, non-commercial, or restricted).
- C. Type of aviation activities proposed (aircraft sales and service, flight instruction, crop dusting, air taxi, etc.)

- D. Number of aircraft expected to be based at the airport initially and within five (5) years.
- E. Type of aircraft expected to be based at the airport (sing-engine, multi-engine, turboprop, jet, etc.)
- F. Whether an instrument approach procedure will be offered.
- G. Statement as to the anticipated number of daily operations.
- H. Copy of the airspace clearance granted by the Federal Aviation Administration for this airport, including USGS topographic map.
- I. A copy of the New York State Commissioner of Transportation's determination concerning this airport in accordance with the provisions of 249 of the New York State General Business Law.
- J. A site plan of the airport which includes the following in addition to other site plan requirements given in Article II.
 - 1. Scale no smaller than one inch equals one hundred feet (1"-100').
 - 2. Location of existing and proposed structures.
 - 3. Alignment of existing and/or proposed runways shall be shown in exact location and magnetic bearing to the nearest thirty (30) minutes.
 - 4. Existing and proposed contours at five (5) foot intervals.
 - 5. Location of aircraft parking and tie-down areas.
 - 6. Provision for access and off-street parking.
 - 7. Provisions for sanitary waste disposal and water supply.
 - 8. Location and method of fuel storage.
- K. An area map at a scale of no less than one inch equals five hundred feet (1"-500') showing:
 - 1. Distances, power lines, or other possible obstructers within two thousand (2,000) feet of the ends of runways shall be accurately plotted;
 - 2. Properties within five hundred (500) feet shall be plotted and owners identified.
- L. Minimum landing strip dimensions:
 - Length -----1500 feet
 - Width ----- 50 feet
- M. Minimum landing strip setbacks:
 - 1. Property boundaries parallel with the runway strip ----- 200 feet
 - 2. Property boundaries parallel with the ends of the runway ----- 500 feet

Section 802 - CAMPING GOUNDS

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

- A. Minimum area: Fifteen (15) acres.
- B. Not more than ten (10) travel trailers, campers, tents, recreation vehicles or motor homes shall be permitted per acre of gross site area.

- C. A camping ground shall be so located that no entrance or exit from a site shall discharge traffic into any residential area nor require movement of traffic from the camping ground through a residential area. A camping ground shall have a minimum of one hundred fifty (150) feet of frontage on a public street.
- D. Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences, and no portion which would expose persons or property to hazards.
- E. Management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundries, and other uses and structures customarily incidental to the operation of camping grounds are permitted as accessory uses to the camping grounds. In addition, retail stores and other convenience establishments shall be permitted as accessory uses in camping grounds in such districts where such uses are not allowed as principal uses, subject to the following restrictions:
 - 1. Such establishments and the parking areas primarily related to their operations shall not occupy more than five (5) percent of the gross area of the camping ground. Such establishments shall be restricted in their use to occupants of the camping ground.
 - 2. Such establishments shall present no visible evidence from any street outside the camping ground of their commercial character which would attract customers other than occupants of the camping ground.
 - 3. The structures housing such facilities shall not be located closer than one hundred (100) feet to any public street and shall not be directly accessible from any public street, but shall be accessible only from a street within the camping ground.
- F. Plans for sewage disposal and water supply shall be designed in accordance with standards promulgated by the New York State Department of Health and/or Environmental Conservation, and shall receive approval from said agencies.
- G. Streets in camping grounds shall be private, but shall be constructed with a stabilized travel way and shall meet the following minimum stabilized travel way width requirements:
 - One way, no parking ----- 12 feet
 - One way with parking on one side,
Or two way with no parking ----- 18 feet
 - Two way with parking on one side ----- 27 feet
 - Two way with parking on both sides ----- 34 feet
- H. Each travel-trailer site shall be at least two thousand five hundred (2,500) square feet in area and have a minimum width of forty (40) feet.
- I. A minimum of eight (8) percent of the gross area for the camping ground shall be set aside and developed as common use areas for open or enclosed recreation facilities. No travel-trailer site, required buffer strip, street right-of-way, storage area, or utility site shall be counted as meeting recreational purposes.
- J. Entrances and exits to camping grounds shall be designed for safe and convenient movement of traffic into and out of the camping ground and to minimize friction with movement to traffic on adjacent streets. All traffic into or out of the camping ground shall be through such entrances and exits. An adequate lighting system shall be provided for the camping ground.
- K. All utilities shall be underground.

- L. Not less than one (1) covered twenty (20) gallon garbage receptacle shall be provided for each camp site. Garbage and rubbish shall be collected and disposed of as often as may be necessary to insure sanitary conditions.
- M. All applicable sanitation standards promulgated by the State of New York shall be met.
- N. Setbacks
Each building or structure within a camping ground shall comply with the setback regulations applicable to the zoning district in which such camping ground is located, except that travel trailers, campers, tents, motor homes and the motor vehicles propelling or carrying the same may be located not closer than fifteen (15) feet to any side or rear lot line nor closer than sixty (60) feet to any front lot line.

Section 803 - CLUBS *includes lodges, fraternal organizations, etc.*

- A. Minimum lot size and setbacks: Same as required by underlying zoning.
- B. Landscaping areas or screening adequate to protect adjacent properties and land uses shall be provided on all side and rear lot lines.
- C. Minimum parking shall be one (1) per employee and one (1) per each three (3) members.
- D. Entrance and exit points shall be from major or secondary roads.

Section 804 - DAY CARE CENTERS

- A. Must have an active outdoor play area of one hundred (100) square feet per child.
- B. Outdoor play area must be appropriately fenced in or otherwise protected from roads and nearby properties.
- C. No outdoor play equipment may be placed within ten (10) feet of any property line, fence, or structure.
- D. Minimum parking shall be one (1) space per staff member plus one (1) space per each ten (10) children.

Section 805 - DRIVE-IN RESTAURANTS

- A. The following information shall be submitted as part of the application for site plan approval and the Special Use Permit for drive-in restaurants in addition to that information required in other section of Code.
 - 1. The location and dimensions of all structures including buildings, screened trash areas, fencing, and lighting (show direction and level of illumination).
 - 2. The location and dimensions of all off-street parking and ingress and egress locations.
 - 3. Proposed landscaping of site.
- B. All drive-in restaurants shall be a minimum of two hundred (200) feet from other such businesses, which distances shall be computed as follows:
 - 1. For such businesses on the same side of the street, two hundred (200) feet between the two (2) closest property lines.
 - 2. For such businesses on opposite sides of the street, two hundred (200) feet measured diagonally between the two (2) closest property corners.

3. For four-corner intersections, one (1) such business may be located on diagonally opposite corners exclusive of the two hundred (200) feet distance requirement.
- C. All drive-in restaurants shall provide suitable storage of trash in areas which are so designed and constructed as to allow no view of the trash storage from the street, to prevent waste paper from blowing around the site or onto adjacent properties or public right-of-way, and to permit safe, easy removal of trash by truck or hand.
1. The minimum distance from any driveway or property line shall be fifteen (15) feet.
 2. The minimum distance between driveways on the site shall be sixty-five (65) feet measured from the two (2) closest driveways' curbs.
 3. The minimum distance into the site from a street intersection shall be thirty (30) feet measured from the intersection of the street right-of-way to the nearest end of the curb radius.
 4. Drive-in restaurants adjacent to or integrated in a shopping center or cluster of commercial facilities shall use the common access with other business establishments in that corner.
- D. Exterior lighting proposed for the site shall be planned, erected and maintained so it will not cast direct light or glare upon adjacent properties or public right-of-way. The light source shall not be higher than twenty (20) feet.
- E. Landscaping and fencing shall be provided to minimize visual unattractiveness and minimize conflicts with adjacent land uses.
- F. Water supply and sewage disposal systems shall be reviewed by the Livingston County Health Department.

Section 806 - ESSENTIAL SERVICES

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

Section 807 - EXCAVATION AND MINING

- A. The applicant shall furnish evidence of a valid permit from the New York State Department of Environmental Conservation pursuant to Title 27, Article 23 of the Environmental Conservation Law when applicable.

- B. Minimum lot area: ten (10) acres
- C. All buildings and excavation operations shall be located or shall occur not less than one hundred (100) feet from any street or property line.
- D. All equipment used for excavations and processing shall be constructed, maintained, and operated in such a manner as to eliminate, as far as is practical, noises and vibrations, and dust conditions which are injurious or a nuisance to persons living in the vicinity.
- E. All operations shall be conducted between the hours of seven o'clock in the morning (7:00 a.m.) and six o'clock in the evening (6:00 p.m.) with no Sunday or holiday operations, and except in the case of public or private emergency or whenever any reasonable or necessary repairs to equipment are required to be made.
- F. All land which has been excavated must be rehabilitated in accordance with reclamation plans approved by the Planning Board as part of the site development plan review and approval process within one (1) year after the termination of operations, at the expense of the operator.
- G. A performance bond or some other financial guarantee shall be required to assure that the conditions stipulated in the approval of the Special Use Permit are carried out.
- H. The Planning Board shall consider the following criteria in their review of the Special Use Permit request:
 1. The current use of the property proposed to be excavated as well as the proposed use of the area subsequent to completion of the excavation and restoration thereof.
 2. The potential short-term and long-term effects of the proposal on the aesthetics and environment of the area or of surrounding areas.
 3. The effect on the property of the proposal that may change the productivity or suitability of the land for agricultural purposes and/or the desirability or feasibility for future development purposes.
 4. The amount of time, as estimated by the applicant that will be required for the completion of the proposed excavation and the restoration of the property.
 5. Noise and/or vibrations that may be created by the proposed operation.
 6. Additional traffic that may be created by the proposed operation. Deleterious effects, if any, on the property in the general area of the proposed operation.
 7. All other criteria which from time to time may be relevant to a proposed operation.
- I. Special permits for excavation operations are of a two (2) year duration. Upon reapplication, the Zoning Enforcement Officer may grant a permit renewal if all conditions of the original permit are complied with.
- J. No persons, firm or corporation shall strip, excavate, or otherwise remove top soil for sale or other use other than on the premises from which taken, except in connection with the construction or alteration of a building on such premises and excavating or grading incidental thereto. Any area of land consisting of more than one (1) acre from which top soil has been removed or covered over by fill shall be seeded to provide an effective cover crop within the first growing season following the start of said operation.

Section 808 - FARM LABOR CAMPS

- A. Camps, whether private or commercial, shall meet all requirements of the State Sanitary Code and other applicable laws, rules or regulations.

- B. Housing facilities maintained shall be set back at least three hundred (300) feet from all property lines.
- C. Special permits for labor camps are of one (1) year duration. Upon reapplication, the Zoning Enforcement Officer may grant a permit renewal if all conditions of the original permit are complied with.

Section 809 - HOTELS AND MOTELS

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

Section 810 - KENNELS AND ANIMAL HOSPITALS

The planning Board may approve a Special Use Permit for kennels in the Agriculture/Residential (AR) District provided that the following standards and provisions are maintained.

- A. When applying for a Kennel Permit, the applicant shall indicate the number of dogs that will be boarded on the premises. Ownership of four (4) or more dogs requires a Kennel Permit. This will include owned, boarded or parked dogs.
- B. Minimum lot size and frontage

Number of Dogs	Lot Size	Lot Frontage
4 – 5 Dogs	2 acres	250 feet
6 – 10 Dogs	5 acres	300 feet
11 - 20 Dogs	10 acres	400 feet

- C. Adequate landscaping or fencing shall be provided to create a visual, sound and smell buffer between such facilities and adjacent properties. Kennels must have a security fence around the perimeter unless enclosed in a building. Security fence must be eight (8) feet high and made of solid material.
- D. All buildings, structures or other accessory uses shall be at least seventy five (75) feet from any property line except that animal runs and structures that house animals shall be at least one hundred (100) feet from any property line.
- E. No outdoor area enclosed by fences for the use of animals shall be permitted with a front yard.
- F. Lot coverage shall not exceed 25 percent.
- G. Entrance and exit points shall be from major or secondary roads only.
- H. Adequate parking shall be provided in accordance with the size of the facility.

- I. Adjacent properties shall be protected from noise, odors, and unsightly appearance.
- J. Adequate provisions shall be made for disposing of animal waste. Applicants must indicate on application for a permit the method of waste disposal and dead animal disposal. Recommended: septic system with one thousand (1,000) gallon tank for waste disposal. The proposed method of disposal of waste and/or dead animal carcasses shall be subject to review and approval by the Planning Board before any such method may be employed by any applicant.
- K. Kennels not in compliance when this zoning goes into effect will have one (1) year to come into compliance to meet this code or no additional permits/license will be issued.

Section 811 - MANUFACTURED HOME PARKS

- A. Special Use Permits for the establishment and operation of manufactured home parks are of a one (1) year duration. Upon reapplication, the Zoning Enforcement Officer may grant a permit renewal if all conditions of the original permit are complied with.
- B. The minimum site area of proposed manufactured home parks shall not be less than twenty (20) acres.
- C. Home lots shall have an area of not less than seven thousand two hundred (7,200) square feet. Each home lot shall front on an interior park roadway and have a minimum width of fifty (50) feet.
- D. Minimum front setback for homes: twenty (20) feet; minimum side setback; five (5) feet on one side with a total of twenty (20) feet on both sides; minimum rear setback: ten (10) feet.
- E. The minimum setbacks of every home building or other structure in a manufactured home park from the centerline of the nearest public street shall be at least one hundred (100) feet, and from every other lot line of the home park shall be forty (40) feet.
- F. Not more than one (1) home shall be located on any one (1) home lot. Every home within a manufactured home park shall be located on a home lot or in a designated storage area shown on the approved site plan for said park.
- G. At least one (1) service building shall be constructed in each manufactured home park which shall be adequate to provide for storage of all equipment, tools, and materials necessary for the maintenance of the park, and all such equipment, tools, and materials shall be stored within said building when they are not in use.
- H. Each home lot must have not less than two (2) off-street parking spaces. Such parking spaces shall be connected to the entrance of the home by a paved sidewalk having a minimum width of twenty-four (24) inches.
- I. No boats, campers, travel trailers, recreational vehicles, or unregistered and unlicensed motor vehicles shall be parked or stored at any place within a manufactured home park except in areas designated and approved or such storage as part of the site plan approval.
- J. Every roadway within a manufactured home park shall have a minimum pavement width of twenty-two (22) feet and a minimum right-of-way width of fifty (50) feet. If cul-de-sacs exist, they shall have a minimum diameter of seventy (70) feet.

- K. A complete water distribution system approved by the Health Department, including a water-service pipe for each home lot and appropriately-spaced fire hydrants shall be installed.
- L. A public sanitary sewage disposal system approved by the Health Department and other appropriate agencies shall be installed, including a sewer connection for each home lot.
- M. All public utility, electric, gas, cable television and telephone lines shall be installed underground.
- N. Appropriate street lighting shall be installed on interior roadways with the minimum number of lights being one at each intersection of interior roadways with each other, or with abutting public road, and at least every two hundred (200) feet where such intersections are more than two hundred (200) feet apart.
- O. Pedestrian walkways shall be provided along at least one side of all interior streets having a width of approximately four (4) feet.
- P. A landscape plan shall be prepared and carried out which will assure the Zoning Board of Appeals that an appropriate planting of trees and shrubs will be included in the park design, including screening where necessary.
- Q. No home shall be located on a manufactured home lot until the roadways, sanitary sewage disposal system, water supply system and storm drainage systems serving said home lot have been installed in accordance with the approved site plan for the manufactured home park.
- R. Each roadway shall be named and noted upon signs at each roadway intersection. Each home lot shall be assigned a permanent number which shall be noted on the home lot in a location clearly visible from the roadway.
- S. All fuel tanks used for heating within a manufactured home park, including all fuel tanks used for heating within homes, shall be installed in accordance with NFPA standards.
- T. Every manufactured home park shall have a recreational area or open space area for use by the occupants of the manufactured home park. Such areas shall be as centrally located as the topography and design of the park permit. Such area shall be not less than ten thousand (10,000) square feet or one thousand (1,000) square feet per home lot in the park, whichever is greater.
- U. The park owner shall provide for the regular collection and disposal of garbage, trash, and rubbish.
- V. No more than one (1) accessory building shall be permitted on any home lot.
- W. Each home shall be enclosed at the bottom with a fire resistant skirt or enclosure within thirty (30) days after the placement of the hoe on the lot.
- X. No enclosure or addition, with the exception of carports, door porches, and patios, shall be constructed on or added or attached to the exterior of any home.
- Y. No manufactured home shall be offered for sale, display for sale or sold within a manufactured home park unless such hoe is located on a manufactured home space and is connected to an electric public utility supply and to a public sewer and public water supply.

- Z. Every roadway within a manufactured home park shall be maintained in good repair and shall be open at all times reasonably possible for travel by occupants of the park and necessary fire, police, ambulance, public utility maintenance and fuel supply vehicles. The park owner shall be responsible for providing and paying the cost of such maintenance and all necessary snow removal.

The provisions of this subsection shall apply to manufactured home parks hereafter established within the Town.

AA. Sale of lots

Any sale of a home space or spaces or portion of a manufactured home park, other than the entire manufactured home park, as shown on the plan of such park approved by the Town, shall thereupon immediately invalidate the permit for such park approved by the Town Board. Any use of any of the premises within the manufactured home park other than as a home park shall.

BB. Home occupations

Home occupations are not permitted in homes located within a manufactured home park.

Section 812 - MULTIPLE FAMILY DWELLINGS

- A. The maximum gross density shall not exceed eight (8) units per acre.
- B. Minimum habitable floor area requirements:
 - 1. Townhouse unit, two (2) bedrooms or less --- 850 sq. ft.
 - 2. Townhouse unit, three (3) bedrooms or more --- 1,000 sq. ft.
 - 3. Apartment unit, efficiency --- 550 sq. ft.
 - 4. Apartment unit, one (1) bedroom --- 675 sq. ft.
 - 5. Apartment unit, two (2) bedrooms --- 800 sq. ft.
 - 6. Apartment unit, three (3) bedrooms --- 950 sq. ft.
 - 7. No more than twenty (20) percent of the total units within a multiple-family dwelling development shall be three (3) or more bedroom units.
- C. Setback requirements
 - 1. The minimum front setback from any public street shall be seventy (70) feet.
 - 2. The side and rear setbacks shall be fifty (50) feet from all other lot lines.
 - 3. Minimum distance between buildings in a multiple family dwelling development shall be eighty (80) feet.
- D. All stairways to the second floor or higher shall be located inside the building.
- E. Access to public road:
 - 1. All multiple-family dwelling developments must have direct access to a public road.
 - 2. If there are more than twelve (12) dwelling units in a multiple-family dwelling development, direct access must be provided to a public road by a private driveway or a road dedicated to the Town by the developer.
 - 3. If there are more than fifty (50) dwelling units in a multiple-family development, or if in the opinion of the Zoning Board of Appeals the location or topography of the site indicate the need for additional access, the Planning Board may require such additional access as a condition of site plan approval.
- F. Off-street parking shall be provided in the amount of two (2) spaces for each unit.

- G. The aggregate lot coverage of multiple-family dwelling developments shall not exceed thirty (30) percent of the total lot area.
- H. Plans submitted for site plan approval shall include: sewage disposal, water supply, storm drainage, landscaping, and lighting.

Section 813 - MOTOR VEHICLE REPAIR SHOPS

- A. Entrance and exit driveways shall have an unrestricted width of not less than twenty-five (25) feet and not more than thirty (30) feet, and shall be located not nearer than ten (10) feet from any property line, and shall be designed as to avoid the necessity of any vehicle backing out into any public right-of-way.
- B. No more than ten (10) licensed motor vehicles being serviced or repaired shall be stored or parked outdoors for more than forty-eight (48) hours and these shall be in areas effectively screened from all property lines. All such vehicles shall be stored in a neat, orderly manner.
- C. Any repair of motor vehicles shall be performed in a fully enclosed building. No motor vehicle parts shall be stored outside of an enclosed building.

Section 814 - PUBLIC AND SEMI-PUBLIC BUILDINGS AND GROUNDS

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

Section 815 - RETAIL GASOLINE OUTLET *may include Convenience Store*

- A. Entrance and exit driveways shall have an unrestrictive width of not less than twenty-five (25) feet and not more than thirty (30) feet, and shall be located not nearer than fifteen (15) feet from any property line, and shall be designed to avoid the necessity of any vehicle backing out into any public right-of-way.
- B. Entrance and exit points shall be from a major or secondary road.
- C. All buildings shall be setback from the major or secondary street line a distance of not less than thirty (30) feet.
- D. Gasoline pumps shall be located not less than twenty (20) feet from the street line and not less than thirty (30) feet from all other property lines.
- E. All buildings shall be setback from the major or secondary street line a distance of not less than thirty (30) feet.

- F. No such establishment shall be located within a distance of two hundred (200) feet of a school, church, hospital, nursing home, senior citizen housing or other place of public assembly designed for occupancy by more than fifty (50) persons, or within five hundred (500) feet of another gasoline station or repair garage on the same side of a street. Said distance shall be measured in a straight line between the nearest points of each of the lots or premises.
- G. Landscaped areas of at least ten (10) feet in width shall be provided along with property lines to lessen any visual unattractiveness.
- H. The entire are of the site traveled by motor vehicles shall be hard surfaced.
- I. Any repair of motor vehicles shall be performed in a fully enclosed building and not more than two (2) motor vehicles shall be offered for sale on the site at any one time. No motor vehicle parts, or partially dismantled motor vehicle shall be stored outside of an enclosed building.

Section 816 - HOSPITALS, NURSING HOMES, AND HEALTH-RELATED FACILITIES

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

Section 817 - LONG DRIVEWAYS

Driveways over two hundred (200) feet in length must be accessible by emergency vehicles. Required minimum design and construction standards are as follows:

Minimum surface width -----	14 feet
Maximum grade -----	8%
Minimum weight-bearing capacity -----	10 tons
Maintained overhead clearance -----	13.5 feet

Section 818 - TELECOMMUNICATION TOWERS

- A. No telecommunications tower shall hereafter be used, erected, moved, reconstructed, changed or altered except after approval of a Special Use Permit and in conformity with these regulations. No existing structure may be modified to serve as a telecommunications tower unless in conformity with these regulations.
- B. These regulations shall apply to all property within the Town of Sparta.
- C. Exceptions to these regulations are limited to new uses which are accessory to residential use, and to lawful and approved uses existing prior to the effective date of this section of the Zoning Code, unless the owner or owners of previously approved towers agree to or have previously agreed to comply.

D. Special use standards

1. Site Plan:

An applicant shall be required to submit a Site Plan as described in Article IX of the Zoning Code. In addition to the requirements enumerated in Section 904 of Article IX, the Site Plan shall include documentation on the proposed intent and capacity of use, demonstration of the need for any proposed location of tower or antenna, demonstration of the need for the proposed height of any tower or antenna, and demonstration of the need for any land or vegetation clearing. Telecommunication towers shall be a Type I action under SEQRA, requiring the inclusion of a completed Visual Environmental Form (Visual EAF). The Site Plan shall also include a landscaping plan addressing other standards cited in Section 904 with particular attention to visibility from key viewpoints within the outside of Town as identified in the Visual EAF. The Planning Board may require submittal of a more detailed visual analysis based on the results of the Visual EAF.

2. Co-location:

a. The shared use of any existing telecommunication tower shall be preferred to the construction of a new tower. Where such shared use is unavailable, location of antennae on other types of existing structures shall be considered. Any Special Use Permit application, renewal, or modification thereof shall include proof that reasonable efforts have been made to co-locate within an existing telecommunications facility or upon an existing structure. Copies of written requests and responses for shared use shall be provided. The application shall also include an adequate inventory report specifying existing telecommunication tower and facility sites and structures exceeding seventy five percent (75%) of the height of the proposed tower within the search range of the cell grid. The inventory report shall contain evaluation of opportunities for shared use as an alternative to new construction.

b. The Applicant shall demonstrate that the proposed telecommunication facility cannot be accommodated on existing telecommunication towers or facilities or other structures in the inventory due to one of the following reasons:

(1) The planned equipment would exceed the structural capacity of the existing and approved telecommunication towers or facilities or other structure, considering existing or planned use for those facilities;

(2) The planned equipment would cause radio frequency interference with other existing or planned equipment which cannot be reasonably prevented;

(3) Existing or approved telecommunication towers or facilities do not have space on which proposed equipment can be placed so that it can function effectively and reasonably;

(4) Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing towers, facilities, or structures;

(5) The property owner or owner of the existing telecommunication tower, facility or structure refuses to allow such co-location.

3. If co-location can occur:

a. The Applicant shall guarantee that his equipment will not interfere with the equipment which has previously been installed on the existing tower;

b. The Planning Board may require the Applicant to submit terms of agreement with the existing tower's owner in which pro-rata payment of the cost of operation of the site is discussed, and cost of co-location is discussed, (including structurally reinforcing of the tower, bringing the tower into compliance with this document, additional site screening, and or the changes including real property acquisition or lease required for shared use);

c. Applicant shall provide a load study, acceptable to the owner of the existing tower and to the Planning Board, showing that the tower can safely accommodate the Applicant's equipment after any required modification;

- d. Applicant shall provide evidence of adequate liability insurance coverage; Applicant shall agree that, upon termination of the use of the tower, all of his equipment and site improvements (including the tower, base pad, and anchorages, if he is the last user of the site) will be removed and the site restored to the condition that existing on the approval date of the tower, ordinary wear and tear excepted.
4. If co-location on an existing tower is satisfactorily proven not be able to occur, and the Applicant proves to the Planning Board the need for a new tower:
 - a. The Applicant shall consider town-owned property as first alternative;
 - b. If town-owned property is satisfactorily proven to the Planning Board to be unsatisfactory, the Applicant should discuss other potential sites with the Planning Board. Key considerations shall be that the site be inconspicuous and be as remote from residences as possible to provide the least practical adverse visual effect on the environment. Additional setbacks beyond those in the Zoning Code may be required to contain on-site. All icefall or debris from tower failure or to preserve privacy of adjoining residential and public property. Setbacks may apply to all anchorages and accessory facilities.
 - c. Upon reaching any tentative agreement with a site owner, Applicant shall individually contact all owners within one (1) mile of the proposed site to inform them of a possible tower erection.
 - d. Applicant shall be requested to attend and remain at all relevant meeting and public hearings. If Applicant is not in attendance, the meeting and/or public hearing will be postponed or terminated.
 - e. Applicant shall demonstrate to the satisfaction of the Planning Board that the location and height of the tower are necessary for proper operation of the utility, and that its operation lies within the scope of the Federal Telecommunication Act of 1996.
 - f. Applicant shall agree to consider shared-use of the tower by any municipal of emergency services equipment providing the equipment does not interfere with other equipment or does not overload the tower.
 - g. Applicant shall agree to allow co-location of equipment of other utilities under the terms listed in Paragraph D.3 above, and shall verify reasons offered by other utilities to either co-locate or not to co-locate.
 - h. Applicant shall provide reimbursement to the Town of Sparta for any incurred costs for technical and/or legal assistance required for review of the application.
 - i. Applicant shall provide lighting on the tower regardless of the height, as so specified by the Planning Board.
 - j. Applicant shall agree that, upon abandonment of the facility for a period of three (3) or more months, the ownership of the facility will be transferred to another telecommunications company, (such transfer requiring application for a new permit), or the tower will be removed and the site restored to its original condition. Upon failure to provide the Town with an anticipated schedule to do so within thirty (30) days, the Applicant shall agree to recognize the authority of the Town to perform such work and further shall agree to reimburse the Town for all costs incurred, including but not limited to demolition engineering and legal fees.
 - k. Applicant shall agree to maintain the tower, its site and all appurtenances throughout the life of its operation
 - l. Applicant shall agree to obtain, and maintain in effect, a General Liability insurance policy covering the tower, its site and appurtenances with a minimum amount of one million dollars (\$1,000,000) per occurrence to guarantee performance of all conditions for which Applicant is responsible.

- m. Applicant shall agree to file with the Town of Sparta a Performance Bond in the face amount of a minimum of thirty thousand dollars (\$30,000) to guarantee performance of all conditions for which Applicant is responsible.
 - n. Applicant shall agree to provide access to, and available parking at, the tower site for emergency vehicles, including fire and medical response vehicles.
 - o. Applicant shall agree to file with the Town of Sparta copies of any lease or other types of agreements for the tower site, and further shall agree to notify the Town of any changes or amendments to such agreements.
 - p. Applicant shall agree to pay any fees levied by the Town of Sparta in conjunction with the review of the applications, especially relating to site plan, special use and mitigation of visual or aesthetic environmental issues, such as fees being included on the Tow of Sparta Fee Schedule.
- E. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to the proposed telecommunication tower special use or site plan.

Section 819 - SAWMILLS

- A. Sawmills may be allowed by Special Use Permit in all zoning districts except Hamlet District (H/MU) and Adult Use District (AD)
- B. Current sawmills
Any sawmill existing prior to enactment of this amendment to the Zoning Law that have been illegally erected in violation of the Zoning Law must obtain a Special Use Permit complying with the requirements herein before it's operation can continue.
- C. Size and setback restrictions
Minimum lot size ----- 7 Acres
Setbacks ----- Side and rear-150 ft. each
- D. Yards and buffers
 - 1. For any current sawmill existing at the time of the amendment and for any future sawmills to be established, if there then exists a residential structure within one hundred fifty (150) feet of any lot of the sawmill premises, the Planning Board shall require landscaped buffers set forth below. Landscaped buffers are required by the Planning Board I order to assure the protection of adjoining uses by providing barriers that block the glare of lights, reduce noise, serve as a protective barrier by blocking physical passage to dangerous areas, and reduce air pollutions, dust and litter, and to otherwise maintain and protect the character of the Zoning District.
 - a. Type
In determining the type and extent of the buffer required, the Planning Board shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
 - b. Width
The width of the required buffer shall be determined by the Planning Board.
 - c. Vegetative screening
A mix of ground cover and shrubbery vegetation and canopy trees, of such variety compatible with the local climate, may be required so that a dense screen not less than six (6) feet in height will be formed within three (3) years of planting.

- d. Berms, walls and fences
Berms and landscaped walls or fences compatible with the principal building design, may be incorporated in the required buffer. Front yard buffers may be required in the same manner to a height of not less than four (4) feet; however, all clear sight triangles shall be maintained. Intersections and driveways stay consistent with Town regulations.
 - e. Adjoining uses
In any case, special considerations shall be given to existing residential uses. In cases where the adjoining use is a commercial use, the buffer may be reduced if the Planning Board determines that the proposed use and adjoining use(s) are not incompatible.
 - f. Storage of equipment, supplies, products, timber and other materials shall be within the buffered area.
- 2. The buffer requirement referred to in this section shall not apply with respect to any future residential structures that come in to existence after a sawmill obtains a Special Use Permit.
- E. The restrictions referred to in this section do not apply to:
- 1. A portable sawmill that has obtained an Operating Permit from the Zoning Officer. Said permit shall only allow the operation of said portable sawmill on a particular premise for one (1) continuous specified period for no more than sixty (60) days in each twelve (12) month period. There shall be no cost for such operating permit.
 - 2. Facilities that are only for value-added wood processing. See *definitions*.

Section 820 - ADDITIONAL STANDARDS FOR SPECIAL USES

- A. No industrial or minimum use shall result in or cause:
- 1. Dissemination of dust, smoke, smog, observable gas, fumes or odors, or other atmospheric pollution, objectionable noise, glare or vibration or electrical interference.
 - 2. Hazard of fire or explosion or other physical hazard to any adjacent building or to any plant growth on any land adjacent to the site or use.
- B. A permit for any special permit use shall be granted only if evidence is presented which establishes that:
- 1. The proposed building, or use will be in harmony with the general purpose, goals, objectives and standards of this Local Law.
 - 2. The proposed building, or hours of operation, or use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety and general welfare.
 - 3. The proposed building or use will be constructed, arranged and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property in accordance with the applicable zoning district regulations.
 - 4. The proposed building or use will be adequately served by essential public facilities and services.
 - 5. The proposed building or use complies with all additional standards imposed on it by the particular provision of this Local Law authorizing such use.
 - 6. All steps possible have been taken to minimize any adverse effects of the proposed building or use on the immediate vicinity through building design, site design, landscaping and screening.
 - 7. If determined appropriate by the Zoning Board of Appeals, a performance bond or other suitable financial guaranty can be required to assure compliance with the conditions of the Special Use Permit.

ARTICLE IX – SITE PLAN REVIEW

Section 900 - PURPOSE

The intent of this section is to set forth additional general standards applying to certain land uses and activities. The nature of these uses and activities require special consideration of their impacts upon surrounding properties, the environment, community character and the ability of the Town to accommodate development consistent with the objectives of this Code.

Section 901 - APPLICATIONS

All applications for zoning permits, zoning variances, or special permits, except for one (1) and two (2) family dwellings and their permitted accessory uses or any addition to a single family dwelling or general farming use shall be accompanied by an application for site plan approval. No zoning permit shall be issued until all the requirements of this Article and all other applicable provisions of this Code have been met.

Section 902 - PROCEDURE

- A. Each application for a building permit, variance or special permit for any structure, building or use, other than one (1) or two (2) family dwellings and their permitted accessory uses and any addition to a single family dwelling or general farming use, shall be referred to the Town Planning Board. The application shall be made to the Planning Board by filing it with the Town Clerk. The Zoning Enforcement Officer shall present it to the Planning Board at their next regularly scheduled meeting. The applicant may wish to attend the Planning Board meeting to answer questions concerning the application.
- B. Within forty-five (45) days of receipt of the application or sixty (60) days in cases when the application must be referred to the County Planning Board in accordance with General Municipal Law, Section 239m, as described in Section 840 of this Code, the Planning Board shall render a decision to approve with conditions, or deny, and forward the decision to the Code Enforcement Officer. An extension of this forty-five (45) day period may be granted upon consent of both the applicant and the Town Planning Board. If the Planning Board fails to act within said forty-five (45) day period or extension that has been granted, the site plan shall be considered approved.
- C. A full written record of the Planning Board minutes and decisions together with all documents pertaining to the case shall be filed in the Office of the Town Clerk and shall be mailed to the Applicant.

Section 903 - PRE-APPLICATION CONFERENCE

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

Section 904 - APPLICATION FOR SITE PLAN APPROVAL

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

- A. Plan checklist for all site plans:
 - 1. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
 - 2. North arrow, scale and date;
 - 3. Boundaries of the property plotted to scale;
 - 4. Existing watercourse and bodies of water
 - 5. Location of any slopes of five percent (5%) or greater;
 - 6. Proposed grading and drainage;
 - 7. Location, proposed use and height of all buildings and site improvements including culverts, drains, retaining walls and fences;
 - 8. Location design and construction materials of all driveways, access roads, parking and truck loading areas, showing points of entry and exit from the site;
 - 9. Location of outdoor storage, if any;
 - 10. Description of the method of sewage disposal and location of the facilities;
 - 11. Identification of water source; including location of well and water lines;
 - 12. Location, size and design and construction materials of all proposed signs;
 - 13. Location and proposed development of all buffer areas, including existing vegetative cover;
 - 14. Location and design of outdoor lighting facilities;
 - 15. General landscaping plan.

- B. As necessary, the Planning Board may require the following:
 - 1. Provision for pedestrian access, if necessary;
 - 2. Location of fire lands and hydrants;
 - 3. Designation of the amount of building area proposed for retail sales or similar commercial activity;
 - 4. Other elements integral to the proposed development as considered necessary by the Planning Board.

Section 905 - PLANNING BOARD REVIEW OF SITE PLAN

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

- A. General considerations
 - 1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
 - 2. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
 - 3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
 - 4. Location, arrangement, size, and design and general site compatibility of buildings, lighting and signs.
 - 5. Adequacy of storm water and drainage facilities.
 - 6. Adequacy of water supply and sewage disposal facilities.
 - 7. Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum feasible retention of existing vegetation.
 - 8. In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation.
 - 9. Protection of adjacent or neighboring properties against noise, glare, unsightliness or nuisances.
 - 10. Protection of solar access on adjacent or neighboring properties.
 - 11. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.

12. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

B. Consultant review

The Planning Board may consult with the town building inspector, fire commissioners, highway department, county planning department and other local county officials, in addition to representatives of federal and state agencies including but not limited to the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.

C. Public hearing

The Planning Board may conduct a public hearing of the site plan. If a public hearing is considered desirable by a majority of the members of the Planning Board, such public hearing shall be conducted within forty-five (45) days of the receipt of the application and shall be advertised in the official newspaper of the Town as least (5) days before the public hearing. Decision shall be rendered within forty-five (45) days of the public hearing.

ARTICLE X – DEFINITIONS

Section 1000 - WORD TERMS AND DEFINITIONS

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

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

Words used in the present tense include the future tense.

The singular includes the plural.

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

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

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

Section 1001 - DEFINITIONS

ACCESSORY USE OR STRUCTURE: An accessory use or structure services the principal use and is subordinate in area, extent, and purpose to the principal use, and is located on the same lot as the principal use. Examples include, but are not limited to transmission equipment, storage sheds and alternate energy systems.

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

AGRICULTURAL BUSINESS ESTABLISHMENTS (AGRI BUSINESS): A business engaged in performing agricultural, animal husbandry, or horticulture services on a fee or contract basis including corn shelling; hay baling and threshing; sorting, grading and packing fruits and vegetables for the grower; agricultural produce milling and processing; horticultural services; crop dusting; fruit picking; grain cleaning; land grading; harvesting and plowing.

AIRPORT: Any facility for the purpose of engaging aircraft to flight, including a landing strip on private property used primarily for private, non-commercial use by the owner or tenant.

ALTERATIONS: As applied to a building or structure, a change or rearrangement in the structural parts, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location to another.

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

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

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

BUILDING: Any structure which is permanently affixed to the land, has one (1) or more floors and a roof, and is intended for the shelter, housing or enclosure of person, animals or chattel.

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

BUSINESS, CONVENIENCE: Small commercial establishments catering primarily to nearby residential areas providing convenience goods and services including but not limited to grocery stores (of less than five thousand (5,000) square feet in floor area), drug stores, beauty salons, barber shops, carryout dry cleaning and laundry pickup stations.

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

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

CARPOR: A roofed structure, with two (2) enclosing walls, used for the storage of one (1) or more autos.

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

CONSTRUCTION TRAILER: Any vehicle used or arranged for temporary use during construction of a permanent building under a properly approved building permit, mounted on wheels and drawn by a power-driven vehicle.

FAMILY: One (1) or more persons related to each other by blood, marriage or adoption (or not more than four (4) individuals who are not so related), living together as a single housekeeping unit. A group home for not more than twelve (12) persons, seventeen (17) years of age or less who are not related, as above, to the adult occupants of the unit shall be considered a family for this ordinance when it has an

internal structure akin to a traditional (biological unitary) family and an external appearance of a relatively normal, stable and permanent family unit and is operated or supervised by a qualified social services agency.

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

FARM LABOR CAMP – Commercial: Any structure or combination of structures designed or intended to be used for the housing of persons engaged in casual or per diem labor on a profit basis for farmers other than the owner of the camp.

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

FLOOD PLAIN: A land area adjoining a river, stream, watercourse, ocean, bay or lake which is susceptible to flooding.

FLOODPROOFING: Any combination of structural and non-structural additions, changes or adjustments to properties and structures which significantly reduce or eliminate flood damage to lands, water and sanitary facilities, structures and contents of buildings.

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

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

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

FRONT BUILDING LINE: A line drawn parallel to an adjoining road right of way, which contains the point at the front of a structure that is closest to the road. A corner lot includes two (2) front building lines.

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

GARAGES, PUBLIC: Any garage other than a private garage, operated for gain, available on a rental basis for the storage of motor vehicles, including the supply of gasoline or oil.

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

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

KENNEL: Any lot or premises on which four (4) or more domestic animals more than four (4) months of age are housed, bred, boarded, trained or sold.

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

CORNER LOT: A parcel of land at the junction of and fronting on two (2) or more intersecting street.

THROUGH LOT: An interior lot having frontage on two (2) parallel or approximately parallel streets.

LOT DEPTH: The main distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

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

LOT LINE: Any boundary line of a lot.

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

MANUFACTURED HOME: A structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein, and which is regulated by Federal HUD standards.

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

MODULAR HOME: A housing unit constructed off-site consisting of more than one (1) segment and meets all the standards of the New York State Uniform Fire Prevention & Building Code.

MOTEL: A building or group of buildings, whether detached or in connected units, containing transient and/or permanent lodging facilities for the general public and which may contain accessory facilities such as restaurants, meeting rooms, retail business activities and related activities primarily to accommodate the occupants, but open to the general public. The term “motel” includes buildings designated as auto cabins, auto courts, motor lodges, tourist courts and similar terms.

MOTOR VEHICLE REPAIR SHOP: A building, or portion of a building, arranged, intended or designed to be used for making repairs to motor vehicles which is licensed by the State of New York.

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

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

PARKING SPACE: Space available for the parking of one (1) motor vehicle exclusive of passageways and driveways giving access thereto.

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

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

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

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

- A. Churches, places of worship, parish houses and convents.
- B. Public parks, playgrounds and recreational areas when authorized or operated by a governmental authority.
- C. Nursery schools, elementary schools, high schools, colleges or universities.
- D. Golf courses and country clubs, however, not including clubs whose activities include the maintenance, storage or takeoffs or landings of aircraft.
- E. Public libraries and museums.
- F. Not-for-profit fire, ambulance and public safety buildings.
- G. Proprietary or not-for-profit hospitals for the care of human beings, nursing homes, convalescent homes, homes for adults, homes for the aged as the same are defined under the Public Health Law or the Social Services Law of the State of New York, provided that they are duly licensed by the State of New York.
- H. Not-for-profit Membership Corporation established for cultural, social, or recreational purposes.
- I. Recreational facilities, either for profit or not-for-profit, such as swimming, tennis, platform tennis, bowling, hockey, ice skating or other indoor or outdoor sports.
- J. Day-care centers approved by the New York State Department of Social Welfare.

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

RESIDENTIAL UNIT: A lot containing one (1) dwelling designed for no more than two (2) families and having customary accessory uses and structures.

RESTAURANT: Any establishment, however designated, at which food is sold for consumption to patrons seated within an enclosed building or on the premises. However, a snack bar or refreshment stand at a public or quasi-public or community pool, playground or park operated by the agency or group or an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be a restaurant.

RETAIL GASOLINE OUTLET: Any establishment that sells gasoline to the public. This includes service station, convenience stores, car washes or any other facility that sells gasoline.

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

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

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

ROAD, SECONDARY: Streets or highways serving to connect major roads with each other and also to handle internal movement within the Town.

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

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

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

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

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

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

SITE PLAN REVIEW: A review and approval process, conducted by the Planning Board, whereby Site Plans are reviewed utilizing criteria stated in this Code.

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

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

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

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred.

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

TELECOMMUNICATION TOWER: A structure on which transmitting and/or receiving antennae are located.

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

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

VARIANCE: A variance is any departure from the strict letter of these regulations granted by the Zoning Board of Appeals as it applies to a particular piece of property, usually pertaining to dimensional requirements only. Variances run with the land and are not particular to any one landowner.

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

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

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

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

ZONING CERTIFICATE OF COMPLIANCE: A certificate issued by the Zoning Officer stating that a structure or the use thereof is in compliance with this Code.

ZONING ENFORCEMENT OFFICER: The official designated to administer and enforce this Code.

ZONING PERMIT: A document issued by the Zoning Officer authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses in conformity with this Code.