

ARTICLE III

Administration and Enforcement

Section 300 Zoning Officer

The duty of administering and enforcing the provisions of this Ordinance is hereby conferred upon the Zoning Officer, who shall have such powers as are conferred upon him by this Ordinance. He shall be appointed by the Town Board and shall carry out any directives from the Board relative to the duties of the position set forth in Section 301 below. The Zoning Officer shall receive such compensation as the Town Board shall determine.

Section 301 Duties of the Zoning Officer

- A. It shall be the duty of the Zoning Officer or his duly authorized assistants 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 Ordinance. In the fulfillment of their duties, the Zoning Officer or his authorized assistants may enter any premise or building during reasonable hours in the course of his duties in accordance with State Law after due written notice has been given.

- B. If the Zoning Officer shall find that any of the provisions of this Ordinance are being violated, he shall notify, in writing, the person responsible for such violations, indicating the nature of the violation and ordering the action to correct it. In his efforts to attain compliance the Zoning Officer shall have the authority to order discontinuance of illegal uses of land, buildings or structures; removal of illegal buildings or structures, or of illegal additions, alterations or structural changes; stop work; or, discontinuance of any illegal work being done. On the serving of notice by the Zoning Officer to the owner of any property violating any of the provisions of this Ordinance, the Certificate of Occupancy Compliance [1998] for such building or use shall be held null and void. A new Certificate of Occupancy Compliance [1998] shall be required for any further use of such building or premises.

- C. It shall be the duty of the Zoning Officer to issue zoning and special use permits and certificates to all applicants who fully comply with the provisions of this Ordinance.

D. The Zoning Officer shall maintain a permanent and current record of all applications for zoning and special use permits and certificates, his action upon same, any conditions relating thereto, and any other matters considered and action taken by him. Such records shall form a part of the records of his office and shall be available for use by Town officials and for inspection by the public. The records to be maintained shall include the following:

1. **APPLICATION FILE.** An individual permanent file for each application for a permit provided for by this ordinance shall be established at the time the application is made. Said file shall contain one (1) copy of the application and all supporting documents and plans; notations regarding pertinent dates and fees and the like; as appropriate, (1) copy of any resolutions or actions of the Planning Board or Zoning Board of Appeals in acting on the application; and the date the permit applied for was issued or denied.
2. **MONTHLY REPORT.** The Zoning Officer shall prepare a monthly report for the Town Board. Said report shall cite all actions taken by the Zoning Officer, including all referrals made by him; all permits and certificates issued and denied; all complaints of violation received and all violations found by him, and the action taken by him consequent thereon; and the time spent and mileage used. A copy of this monthly report shall also be transmitted by the Zoning Officer to the Tax Assessor, Planning Board and Board of Appeals at the same time it is transmitted to the Town Board.

E. Omitted and/or Reserved[1998]

F. Whenever the Zoning Officer denies a permit or certificate he shall, in writing, inform the applicant of the specific reasons for denial and instruct the applicant on the proper methods to apply for relief.

G. The Zoning Officer shall maintain a current list and a map of non-conforming uses to determine if discontinuance or destruction, or change in use or vacancy has taken place.

H. The Zoning Officer shall maintain a current list and a map showing the variances issued by the Zoning Board of Appeals and special use permits approved by the **Planning**

Board [1998] to determine if the conditions and safeguards placed on variances and special permits are being complied with.

- I. Upon written direction from the **Planning Board** [1998], the Zoning Officer shall issue special use permits. Upon approval of a variance by the Zoning Board of Appeals, the Zoning Officer shall be empowered to issue the necessary permits with the specific conditions to be imposed.
- J. The Zoning Officer shall be authorized and empowered to issue appearance tickets pursuant to 150.20 of the New York State Criminal Procedure Law.

Section 302 Issuance of Certificates and Permits

The certificates and permits enumerated herein are hereby established for the equitable enforcement and administration of the provisions of this Ordinance. A zoning permit or special use permit shall be a prerequisite to the erection or alteration of a building, structure or use thereof. Permits issued to this Section shall expire in twelve (12) months unless the project is completed. The Zoning Officer may grant an extension for time of completion and include any conditions or requirements deemed necessary or desirable. Applicants shall justify the need for the proposed extension. Unless such an extension is requested and approved, further work as described in the canceled permit shall not proceed until a new permit has been obtained. If a project is not initiated within six (6) months of the issuance of the permit, the permit issued shall be considered null and void.

A. Zoning Permit

- 1. The Zoning Officer is hereby empowered to issue a zoning permit for any plans regarding the construction or alteration or demolition of any building or part of any building, or the change in the use of any land area or part thereof, where he shall determine that such plans are not in violation of the provisions of this Ordinance.
- 2. No building or structure shall be erected, moved, added to or structurally altered or changed in use without a zoning permit therefor issued by the Zoning Officer. No zoning permit shall be issued by the Zoning Officer except in conformity with the provisions of this Ordinance, unless he receives a written order from the

Board of Appeals in the form of an administrative review or variance as provided by this Ordinance.

B. Temporary Use Permit

Upon written direction of the Planning Town [1998] Board, the Zoning Officer is hereby empowered to issue a temporary use permit. A temporary use permit shall only be effective for a period of not to exceed six (6) months; said permit may be extended by the Zoning Officer not more than once, for an additional period not to exceed six (6) months.

C. Certificate of Occupancy Use [1998]

1. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, changed, converted or wholly or partly altered in its use until a Certificate of Occupancy shall have been issued therefor by the Zoning Officer stating that the proposed use of the building or land conforms to the requirements of this Ordinance.
2. Failure to obtain a Certificate of Occupancy Use [1998] shall be a violation of this Ordinance and punishable as provided by Article XIII.

D. Special Use Permit

Upon written direction of the Planning Town Board, after review and approval by the Planning Board, the Zoning Officer is hereby empowered to issue a special use permit as provided for by this ordinance.[1998]

1. The special use permit uses for which conformance to additional standards is required, shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth in Article XI in addition to all other requirements of this Ordinance. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

2. A special use permit shall authorize only one particular special use. The special use permit shall expire if the use shall cease for more than one (1) year for any reason.

3. No person shall be issued a special use permit for a property where there is an existing violation of this Ordinance. Before any special use permit shall be issued, the Planning Town [1998] Board shall make written findings certifying compliance with the specific rules governing individual special permit uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
 - a. Ingress and egress to property and proposed structures thereon, with particular reference to vehicular and pedestrian safety, and convenience, traffic flow and control, and access in case of fire or catastrophe.
 - b. Off-street parking and loading areas where required, with particular attention to the items in (a) above, and the noise, glare or odor effects of the special permit use on adjoining properties, and properties generally in the district, and the economic impact of the proposed special permit use.
 - c. Refuse and service areas, with particular reference to the items in (a) and (b) above.
 - d. Utilities as appropriate, with reference to locations, availability and compatibility.
 - e. Screening devices and buffering areas [2004], with reference to type, dimensions and character.
 - f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district.
 - g. Required yards and other open space.
 - h. General compatibility with adjacent properties and other property in the zone district.

Section 303 Application Procedures

A. Zoning Permits

No building or structure shall be begun, nor shall any building or structure be extended or structured altered, nor shall the use of any building or land area be changed, until a zoning permit is issued by the Zoning Officer and a building permit, if required, is issued by the Enforcement Officer appointed by Wyoming County. The Zoning Officer shall in no case, except under a written order of the Zoning Board of Appeals issue a zoning permit for the use of any building or

parcel of land where the proposed use thereof would be in violation of any provision of this Ordinance.

1. All applications for zoning permits shall be made in quadruplicate to the Zoning Officer on forms supplied by him in the details specified in Section 304 of this Ordinance.
2. One copy of the application and supporting documents shall be returned to the applicant by the Zoning Officer, after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. The original and all remaining copies of the application, similarly marked, shall be retained by the Zoning Officer.
3. Where the proposed use is farm-related, a single-family or two-family residence, or a permitted use or an accessory use to a single-family or two-family residence, the Zoning Officer shall carefully consider the application for compliance with this Ordinance, and may either issue or deny the zoning permit. When the application is for any other permitted use in any zone, the Zoning Officer shall, prior to the issuance of a permit, refer one (1) copy of such plans, drawings and statements to the Planning Board for review and recommendation. The Planning Board, at its discretion, may request the authorization of the Town Board to obtain the advice of a professional engineer to assist in the review of the permit application. [1998]
4. All permit applications referred to the Planning Board shall be reviewed to determine the consistency of the proposed site development plot plan with the goals and objectives of the town's master plan, that the proposed improvements are sufficient to adequately serve the proposed use, that adjacent properties are protected from potential negative impacts and that potential adverse environmental impacts are minimized.
5. The Planning Board shall, within forty-five (45) days after receipt of a complete application, recommend approval or disapproval of the proposed development or construction. In the event of disapproval, the reasons shall be stated clearly to the Zoning Officer in writing. The Zoning Officer shall deny a zoning permit for the proposed use until such conditions as the disapproval is based upon have been corrected and written approval of the Planning Board is obtained. The absence of a reply from the Planning Board within the forty-five (45) day review period shall constitute approval and the Zoning Officer may act immediately.

6. The Planning Board may conduct a public hearing on the preliminary site plan in accordance with Town Law. ~~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 complete application, and shall be advertised in the official newspaper of the Town at least five (5) days before the public hearing. If a public hearing is held on an application, the time period within which the Planning Board shall act on the proposal shall be extended up to a maximum of thirty (30) days following the date of the public hearing, prior to reaching a final decision.~~ [1998]

B. Certificate of Occupancy Compliance

1. Within seven (7) days after the completion of the change in use of a building or parcel of land, the applicant shall so notify the Zoning Officer by registered mail stating that such action has been completed. ~~The placement of a mobile home on an individual lot shall require a Certificate of Occupancy and shall meet the requirements specified in Article XII.~~ Within seven (7) days of the receipt of this letter, the Zoning Officer shall conduct a final inspection of the premises to determine whether the new use complies with the requirements of this Ordinance. If the Zoning Officer determines that said building or use complies with the provisions herein, he shall issue a Certificate of Occupancy Compliance. If it is determined that the provisions specified herein are not fully complied with, the Zoning Officer shall specify the violations and the terms and conditions for remedying these violations. A Certificate of Occupancy Compliance shall not be issued until such violations are corrected. [1998]
2. The Zoning Officer shall not issue a Certificate of ~~Occupancy~~ Compliance until the applicant has received final approval of the Health Department following the installation of an on-site sewage disposal. [1998]
3. No non-conforming building or use shall be maintained, renewed, changed or extended without a Certificate of ~~Occupancy~~ Compliance (certificate of existing use) having first been issued by the Zoning Officer. The Certificate of Occupancy shall state specifically wherein the non-conforming use differs from the provisions of this Ordinance. [1998]

C. Special and Temporary Use Permits

1. All applications for special and temporary use permits shall be made in quadruplicate to the Zoning Officer on forms provided by him.
2. The Zoning Officer, after determining that an application is in proper form, shall transmit copies of the application and all supporting documents to the Planning Board for its review ~~and recommendation to the Town Board~~. The Planning Board, at its discretion, may request the authorization of the Town Board to obtain the advice of a professional engineer to assist in the review of the permit application. ~~and determination subject to the following paragraphs 6 and 7.~~
[1998]
3. The Zoning Officer shall transmit a copy of the complete application and supporting documents to the County Planning Board for review when required under Article 12-B, 239-m of the General Municipal Law.
4. The application shall include a ~~site~~ or take out line plot plan of the special permit use and subject parcel drawn to scale which includes all of the data specified in Section 304 of this Ordinance.
5. The Planning Board shall, ~~within sixty two (62) days following receipt of a the~~ statutory time provided by Town Law, complete application, prepare a written report either approving, approving with conditions or rejecting the proposal.[1998]
6. If The Planning Board ~~determines that the public benefit would be served by a public hearing, said hearing shall be conducted~~ shall conduct ~~within sixty two (62) days~~ a public hearing in accordance with Town Law, following receipt by the Planning Board of the completed application. Within ~~thirty (30) days from the date of such public hearing~~ the time required by Law, the Planning Board shall, by resolution, either approve, disapprove, or approve with conditions, the application so heard. The ~~thirty (30) day period~~ period may be extended by mutual agreement of the applicant and the Planning Board. [1998]
7. ~~If the Planning Board determines that a public hearing would serve no community benefit, it shall render a decision on the proposal within sixty two (62) days following the receipt of the full application. The sixty two (62) day period may be extended by mutual agreement of the applicant and the Town Board. In approving an application, the Town Board may impose any modifications or conditions it deems necessary to conform with the goals and objectives of the town's master plan, and its principles of land use and development and to protect the health, safety or general welfare of the public. If an application~~

- a. ~~If an application~~ is approved by the Planning Board, the Zoning Officer shall be furnished with a copy of the approving resolution of the Board and he shall issue the permit applied for in accordance with the conditions imposed by the Planning Board.
- b. ~~If any application~~ is disapproved by the Planning Board, the reasons for such denial shall be set forth in the Board resolution and a copy of such resolution shall be transmitted to the Zoning Officer. The Zoning Officer shall deny the application accordingly by providing the applicant with a copy of the Board's reasons for disapproval.
- c. ~~The~~ Is approved or disapproved, the Zoning Officer shall transmit one (1) copy of all approved and denied applications to the Planning Board, and one (1) copy of all approved applications to the town clerk and tax assessors.[1998]

Section 304 Application Details

A. Zoning and Temporary Use Permits

Each application for zoning and temporary use permits shall be made in quadruplicate and accompanied with a site plan. The materials to be submitted with each application shall clearly show 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.

The application shall include the following information and plans for both "before" and "after" conditions:

1. The location, design, dimensions use and height of each proposed building and yard area.
2. Property boundaries, as shown on an accurate map drawn to scale, including the precise location of the centerline of the road, dimensions, north arrow, date.
3. A general location map showing the location of the property in relation to adjacent parcels.
4. The location and arrangement of vehicular access ways and the location, size and capacity of all areas to be used for off-street parking.
5. Information to describe topography and natural grades.

6. Provisions for water supply, sewage disposal, and storm drainage.
7. The location of fire hydrants.
8. Other elements integral to the proposed development as considered necessary by the Zoning Officer or Planning Board or Town Board , including a property survey, any and all requirements to comply with the local SEQR law adopted by the Town Board, other community impacts and the identification of any state or county permits required for the execution of the project.[1998]

B. Special Use Permits

In addition to the information specified above for zoning and temporary use permits, applicants for special use permits shall include the following additional information:

1. The location and design of outdoor lighting facilities.
2. The location and design of construction materials of all proposed signs.
3. The location and capacity of all areas to be used for loading and unloading and the distance to the nearest intersection.
4. The location and dimensions of sidewalks, walkways, and other areas established for pedestrian use.
5. The design and treatment of open areas, buffer areas and screening devices maintained, including dimensions of all areas devoted to lawns, trees and other landscaping devices.
6. The location of fire and other emergency zones.

Section 305 Fees

Each application for a permit provided for by this Ordinance shall be accompanied by a fee, payable in cash or other form of security approved by the Town Attorney. Fees shall be established annually by resolution of the Town Board following a public hearing.

Section 306 Site Plan Review

A. Review and Approval

1. Prior to the issuance of a zoning permit, the Zoning Officer shall require site plan approval by the Planning Board pursuant to this section. The Zoning Officer shall notify an applicant for a zoning permit where site plan approval is required of the provision of this section.

B. Sketch Plan

1. A sketch plan conference may be held between the Planning Board and the applicant prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to inform the Planning Board of his/her proposal prior to the preparation of a detailed site plan; and for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant should provide the following:

- a. A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations;
- b. A sketch or map of the area which clearly shows the location of the site with respect to nearby streets, rights-of-way, properties, easements and other pertinent features; and
- c. A topographic or contour map of adequate scale and detail to show site topography.

C. Application for Site Plan Approval

1. An application for site plan approval shall be made in writing to the Chairman of the Planning Board and shall be accompanied by information contained on the following checklist. Where the sketch plan conference was held, the accompanying information shall be drawn from the following checklist as determined necessary by the Planning Board at said sketch plan conference.
 - a. Site Plan Checklist

- i. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
- ii. North arrow, scale and date;
- iii. Boundaries of the property plotted to scale;
- iv. Existing watercourses;
- v. Grading and drainage plan, showing existing and proposed contours;
- vi. Location, design, type of construction, proposed use and exterior dimensions of all buildings;
- vii. Location, design and type of construction of all parking and truck loading areas, showing access and egress;
- viii. Provision for pedestrian access;
- ix. Location of outdoor storage, if any;
- x. Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences;
- xi. Description of the method of sewage disposal and location, design and construction materials of such facilities;
- xii. Description of the method of securing public water and location, design and construction materials of such facilities;
- xiii. Location of fire and other emergency zones, including the location of fire hydrants;
- xiv. Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
- xv. Location, size and design and type of construction of all proposed signs;
- xvi. Location and proposed development of all buffer areas, including existing vegetative cover;
- xvii. Location and design of outdoor lighting facilities;
- xviii. Identification of the location and amount of building area proposed for retail sales or similar commercial activity;

- xix. General landscaping plan and planting schedule;
 - xx. An estimated project construction schedule;
 - xxi. Record of application for and approval status of all necessary permits from state and county officials.
 - xxii. Identification of any state or county permits town required for the project's execution; and
 - xxiii. Other elements integral to the proposed development as considered necessary by the Planning Board.
- b. Site Plan Review does not apply to single family residences and their accessory buildings, but is required on all special use permit applications.

D. Review of Site Plan

1. The Planning Board's review of the site plan shall include, as appropriate, but is not limited to, the following general considerations:
- a. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
 - b. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
 - c. Location, arrangement, appearance and sufficiency of off-street parking and loading.
 - d. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
 - e. Adequacy of stormwater and drainage facilities.
 - f. Adequacy of water supply and sewage disposal facilities.
 - g. 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 retention of existing vegetation.
 - h. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.

- i. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- j. Overall impact on the neighborhood including compatibility of design consideration.

E. Public Hearing

- 1. The Planning Board may conduct a public hearing on the site plan if considered desirable by a majority of its members.
- 2. Such hearing shall be held with sixty-two (62) days of the receipt of application for site plan review and shall be advertised in the Town's official newspaper at least five (5) days before the public hearing.

F. Planning Board Action on Site Plan

- 1. Within sixty-two (62) days of the receipt of an application for site plan approval, the Planning Board shall render a decision, file said decision with the Town Clerk, and mail such decision to the applicant with a copy to the Zoning Officer. The time within which a decision must be rendered may be extended by mutual consent of the applicant and Planning Board.
 - a. Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due to the Town, the Planning Board shall endorse its approval on a copy of the final site plan and forward a copy to the applicant, Zoning Officer, and file same with the Town Clerk.
 - b. Upon disapproval of a site plan, the Planning Board shall so inform the Zoning Officer and the Zoning Officer shall deny a zoning permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval. Such disapproval shall be filed with the Town Clerk.

- G. Reimbursable Costs - Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with their review of a proposed site plan shall be charged to the applicant.
- H. Performance Guarantee
1. No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee has been posted for improvements not yet completed.
 2. The sufficiency of such performance guarantee shall be determined by the Town Board after consultations with the Planning Board, Zoning Officer, Town Attorney and other appropriate parties.
- I. Inspection of Improvements - The Zoning Officer shall be responsible for the overall inspection of site improvements including coordination with the Planning Board and other officials and agencies, as appropriate.
- J. Integration of Procedures - Whenever the particular circumstances of proposed development require compliance with either the special use permit procedure in this zoning ordinance or other requirements of the Town, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this section with the procedural and submission requirements for such other compliance. [2006]