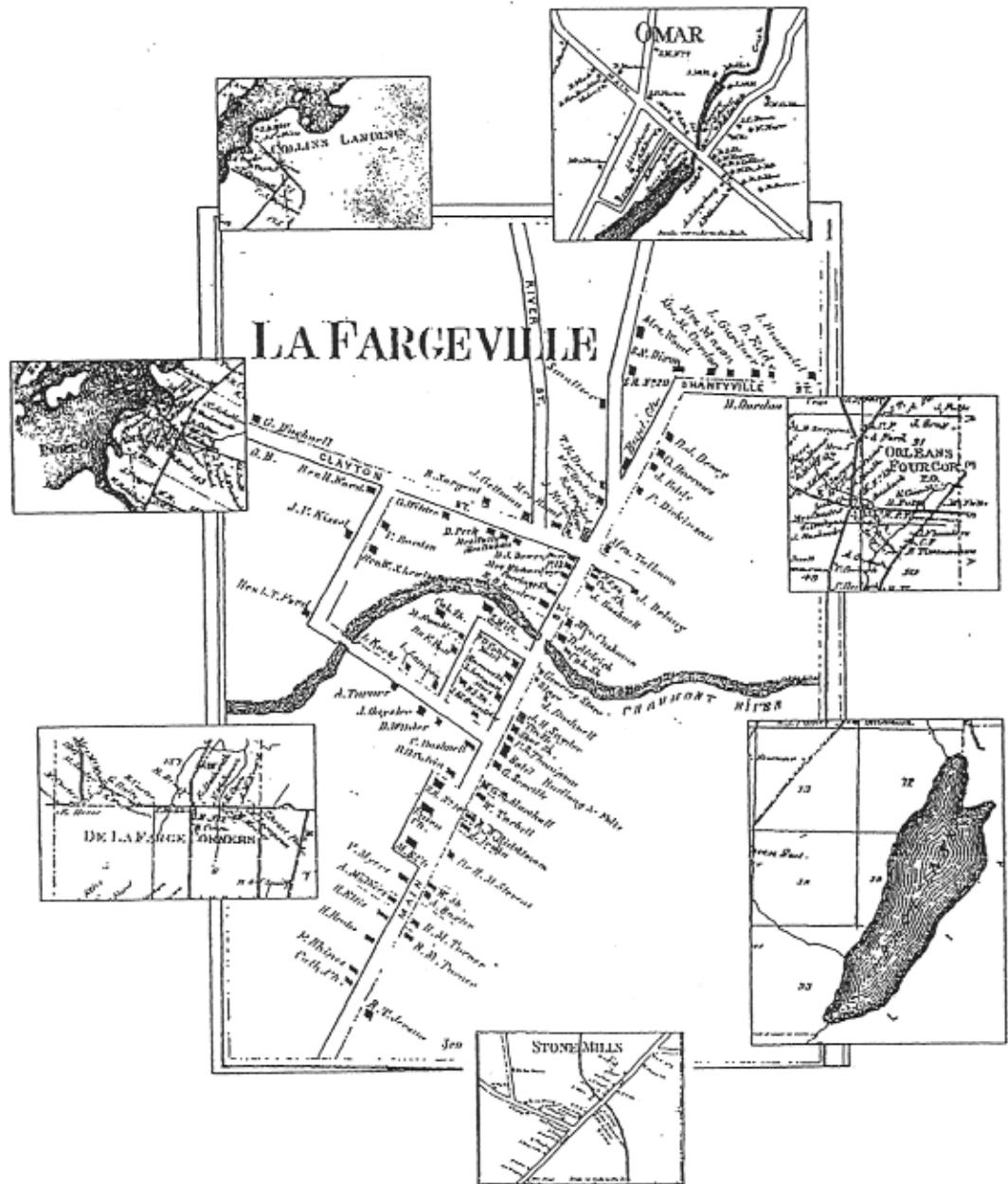


COPY

TOWN OF ORLEANS

ZONING ORDINANCE



ADOPTED October 17, 2012

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ARTICLE 1 INTRODUCTORY PROVISIONS

Section 1.01 Enacting Clause

Pursuant to the authority conferred by Article 16 of Town Law, the Town Board of the Town of Orleans, Jefferson County, New York, hereby ordains and enacts this Ordinance as follows.

Section 1.02 Purpose

The Town of Orleans Zoning Ordinance is established for the purpose of promoting the public health, safety and welfare, and the most desirable use for which the land in each district may be adapted; for conserving the value of buildings and for enhancing the value of land throughout the Town. Reasonable consideration is given to the best planning use of each district and its peculiar suitability for the particular uses for which it is intended.

Section 1.03 Short Title

This Ordinance shall be known and may be cited as "The Town of Orleans Zoning Ordinance."

Section 1.04 Repealer Clause

The Town of Orleans Ordinance titled "Zoning Ordinance, Town of Orleans, Jefferson County, New York", adopted on May 11, 1973, as amended shall be repealed in its entirety as of the effective date of this Ordinance.

Section 1.05 Application of Regulations

- A. No building, structure, or land shall hereafter be used or occupied and no building, structure, or part thereof shall be erected, moved or altered (to expand the exterior physical dimensions) unless in conformity with the regulations herein specified for the district in which it is located.

There shall be no change of use unless in conformity with the regulations herein specified for the district in which it is located.

- B. No building shall hereafter be erected or altered:

1. To exceed the maximum height requirements of the District in which such building is located.
2. To have narrower or smaller rear yards, front yards, side yards, than is specified in this Ordinance for the District in which such building is located.

- C. Buildings no longer in use and in such conditions as to endanger the health, safety and beauty of the Town shall be repaired or removed within one year following the enactment of this Ordinance.

- D. No part of a yard or other open space about any building required for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space similarly required for another building.

ARTICLE 2 DEFINITIONS

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

ADULT ENTERTAINMENT USE: Any establishment or commercial use involved in the dissemination of material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, including but not limited to adult bookstores, adult motion-picture theaters, adult entertainment cabarets, and adult entertainment revues.

AGRICULTURAL BUSINESS: A commercial use that supplies agricultural operations with needed supplies, implements and other products.

AGRICULTURAL OPERATION: The raising and production for compensation of crops, livestock, poultry, dairy products, fish or other wildlife, maple syrup products, animal husbandry, forestry operations and farm winery. The sale, at wholesale or retail, of farm products upon the premises where the same are grown or produced shall be considered an accessory use to the agricultural operation. This term does not include the operation of a hog or fur farm.

AGRICULTURAL PROCESSING PLANTS: A structure, building, facility, area, open or enclosed, or any other location for the refinement, treatment, or conversion of agricultural products where a physical, chemical or similar change of an agricultural product occurs. Examples of agricultural processing include but are not limited to, coolers, dehydrators, cold storage houses, hulling operations, and the sorting, cleaning, packing, and storing of agricultural products preparatory to sale or shipment in their natural form including all customarily incidental uses.

AIRSTRIP: An area of land where air craft land and take off.

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

ANIMAL HOSPITAL: A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

Town of Orleans Draft Zoning Law

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

BAR: An establishment in which alcoholic beverages is served by the drink and where limited food may also be served.

BILLBOARD: A sign with a surface area which exceeds 32 square feet.

BUILDABLE AREA: The area of a lot remaining after the minimum yard requirements of the zoning ordinance have been met.

BUILDING: Any structure having a roof, supported by columns or by walls, which is used or occupied for the shelter, housing or enclosure of animals, persons or property. The term, unless specified, includes both principle and accessory buildings.

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

BUILDING AREA: The total area, taken on a horizontal plane at main grade level, consumed by the principal building and all accessory buildings, excluding chimneys, uncovered porches, patios, terraces, steps and open areaways.

BUILDING LINE: The line that is formed by the face of the building/structure or the attached part of the building/structure nearest the lot line. This shall include measurement from such structures as covered and uncovered porches, patios, terraces, carports, attached garages, and other similar protrusions.

BUILDING, PRINCIPAL: A building in which is conducted the main or principal use of the lot on which such building is located. A garage or other accessory structure that is connected to a dwelling or structure becomes part of the principle building rather than an accessory building.

CAMPGROUND: Any lot or area used or occupied by three (3) or more tents, recreation trailers or vehicles which are used for part time living or sleeping purposes or commercial purposes which is generally determined to be used by transients on a vacation trip.

CEMETERY: An area of land where people are interred.

CHANGE OF USE: Any use that substantially differs from the previous use of a building or land use. Uses covered under the same definition shall not be considered a change of use.

COMMERCIAL USE: An activity involving the sale of goods or services carried out for profit.

COMMERCIAL ENTERPRISE, LARGE: A commercial use that is intended to sell or trade goods, products or services to clientele from a wide area. Such enterprises shall generally include, but not be limited to, trucking centers, theme parks, building supply operation and similar operations.

Town of Orleans Draft Zoning Law

COMMERCIAL ENTERPRISE, SMALL: A commercial use that is intended to sell or trade retail goods, products or services to residents in the immediate community. Such enterprises shall include grocery stores, small implement dealers, restaurants and similar operations. It shall not include industrial or manufacturing operations.

COMMUNITY FACILITY: A building, structure or use operated for the benefit of the general well-being, health, safety, welfare, and enjoyment of the public. This shall include but not be limited to, fire stations, libraries, community-owned buildings, schools, hospitals, nursing homes, churches, and municipally owned recycling facilities.

CONVENIENCE STORE: A retail establishment selling food products, household items, newspapers and magazines, candy, beverages, a limited amount of freshly prepared foods such as sandwiches and salads for primarily off-premise consumption, and gasoline.

CREMATORIUM: A building used for the cremation of human remains.

DANGEROUS USE: The manufacture, bulk storage or handling of explosives, flammable gases, lethal or toxic chemicals or other similar substances in such quantities or manner as may endanger the public safety. The term does not include the operation of a retail gasoline station.

DISSEMINATION: The transfer of possession, custody, control or ownership of or the exhibition or presentation of any performance to a customer, members of the public or business invitee of any material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

DRIVE-IN THEATER: A facility where movies are viewed from vehicles. There may also be a small viewing area where people may sit and watch the movie.

DRIVE-IN RESTAURANT: A restaurant with a feature or characteristic involving the sales of products or provision of services to occupants in motor vehicles, including drive-in or drive-up windows.

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

DWELLING, SINGLE FAMILY: A detached building designated for or occupied exclusively by one family and containing not more than one dwelling unit. This term shall include modular home and shall not include manufactured home, as defined in this Ordinance.

DWELLING, TWO FAMILY: A detached building where not more than two individual families live; or where two dwelling units; with separate cooking, sanitary, living and sleeping facilities exist. Each unit shall contain a minimum of 500 square feet of interior floor area.

DWELLING, MULTIPLE FAMILY: A building or portion thereof used or designed as a residence (including cooking, sanitary living or sleeping facilities) for each of the three or more families who reside therein. Each unit shall contain a minimum of 500 square feet of interior floor area.

EASEMENT: A grant of one or more of the property rights by the owner to and/or for the use by the public, a corporation or another person or entity.

Town of Orleans Draft Zoning Law

ENFORCEMENT OFFICER: A person appointed by the Town Board to carry out the regulations of this Ordinance. This title is interchangeable with zoning enforcement officer or zoning officer.

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

FAMILY: One or more persons living together as a single housekeeping unit.

FARM WINERY: An agricultural operation for the growing of grapes and the preparation, processing, marketing, and distribution of wines. The use may include a tasting room for the purpose of marketing the winery's products but not those of other wineries, along with incidental food service and sales areas. See definition of Agricultural Operation.

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

FORESTRY OPERATIONS: An agricultural operation consisting of the raising and harvesting of timber, pulp woods, and other forestry products for commercial purposes, including the temporary operation of a sawmill or chipper to process the timber cut from that parcel or contiguous parcels. See definition of Agricultural Operation.

FRATERNAL ORGANIZATION: A facility whose use is available to dues paying members and guests only.

FLOOR AREA: The total horizontal area of all floors of a building excepting the basement and attic thereof measured along the outside faces of the exterior walls exclusive of garages, porches, and other similar accessory attachments.

FUR FARM: Any lot, building, or part thereof, used or occupied for the raising or the keeping for compensation of rabbits, foxes, minks, skunks or other fur bearing animals.

GARAGE, PRIVATE: An accessory building for the purpose of storage of motor vehicles and other personal property.

GROSS FLOOR AREA (GFL): The gross size of the total floor area of the outside dimensions of a building. These dimensions shall include the length and width of the facility.

GROSS LEASABLE AREA (GLA): The gross size of the floor area of a commercial facility which is leasable.

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

HIGH WATER MARK: The point on the shoreline of the St. Lawrence River or its tributary waterways reached by the highest historically recorded water level of said river, established by chart datum of the U. S. Army Corps of Engineers and determined by the sloping surface of said river with lake Ontario at a level of 248.58 (243.28 + 5.30) feet above mean sea level at Father Point, Quebec (International Great Lakes Datum, 1985).

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HOG FARM: Any lot or building, or part thereof, used or occupied for the raising of pigs or hogs for compensation.

HOME OCCUPATION: Any accessory use of a service character customarily conducted within a dwelling unit by a resident thereof which is clearly secondary to the use of the dwelling unit for living purposes, does not substantially change the character thereof or have an exterior evidence of such use, other than an approved advertising sign and parking requirements associate therewith: and not occupying more than thirty percent (30%) of the gross floor area including garages, basements, cellars, attics, storage sheds and similar areas.

HOSPITAL: Any hospital, sanitarium or other institution used or occupied for the care of persons mentally or physically ill, incapacitated or disabled. The term includes nursing and extended care homes. See definition of Community Facility.

HOTEL/MOTEL: See MOTEL/HOTEL

INDUSTRIAL OPERATION: A building, lot or portion thereof, used for the manufacture, design, assemblage or other fabrication of a product for sale.

LANDSCAPING: Improvements to land including but not limited to the contouring of land, planting of flowers, shrubs, or trees, the use of decorative features, including sculptures, patterned walks, fountains and ponds.

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

LOT, CORNER: A lot at the junction of, and fronting on, two or more intersecting roads.

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

LOT, ILLEGAL: A lot that did not meet the minimum requirements of the Town of Orleans Zoning Ordinance in effect when the lot was created.

LOT LINE: Any line dividing one lot from another or from the road right of way or waterfront lot line.

LOT LINE, FRONT: The lot line adjoining any road right-of-way line or the waterfront lot line. If a lot adjoins two or more roads, it shall be deemed to have a front lot line respectively on each.

LOT LINE, REAR: The lot line opposite and most distant from the front lot line.

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

LOT LINE, WATERFRONT: The lot line identified by the high water mark.

LOT OF RECORD: Any lot which has been recorded in the County Clerk's Office.

Town of Orleans Draft Zoning Law

LOT OF RECORD, SUBSTANDARD: A Lot of Record that was recorded in the County Clerk's Office prior to the adoption of the Town of Orleans Zoning Ordinance (May 11, 1973) or prior to any adopted amendments and did not meet the minimum dimensional requirements of the Town of Orleans Zoning Ordinance in effect at the time of recording.

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

MACHINE AND WELDING SHOP: A facility intended for the assembly, fabrication, repair or service of machinery and other metal products and components.

MANUFACTURED HOME: A dwelling unit consisting of one or more sectional units and constructed to the Federal HUD Code effective July 15, 1976. These homes are built entirely in a factory and designed to be used with or without a permanent foundation. A steel frame, an integral part of the structure, is permanently attached to the floor joists of the manufactured home or its section. The home is transported to the site using hitch, wheels and axles, which are removed at the site. Each home is labeled with an embossed seal that confirms compliance with the HUD code. Each home shall be a minimum of 500 square feet in size.

MARINA: Any lot, building, structure or part thereof located on or adjacent to the waterfront and which provides docking or secure mooring facilities for yachts, motor boats, sail boats or other marine vehicles or craft. The use can also include the sale, rental and/or storage of marine vehicles; as well as the supplies, service, repair and other related facilities or operations necessary to maintain such craft and service those using these vehicles.

MINING OPERATION: A lot, or land, or part thereof used for the purpose of extracting stone, sand, gravel or top soil, but does not include the process of grading a lot preparatory to the construction of a building which has an approved zoning permit.

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

MODULAR HOME: A dwelling unit manufactured off-site in accordance with the NYS Uniform Fire Prevention and Building Code. See definition of Single Family Dwelling.

MANUFACTURED HOME PARK: Any lot, or adjacent lots, under single ownership on which three or more manufactured homes are located, regardless of whether or not rent is charged for such accommodations.

MOTEL/HOTEL: A building, or group of buildings, whether detached or in connected units, used as individual sleeping or living quarters and related office, with or without restaurant facilities, designed primarily for travelers, and provided with accessory off-road parking facilities.

NIGHT CLUB: An establishment in which alcoholic beverages and/or food is served and in which music, dancing, or entertainment is conducted.

NON-CONFORMING: Not in conformity with the provisions of the Ordinance at the time of the enactment thereof.

NON-CONFORMING USE OR STRUCTURE: A structure or use not conforming to the regulations of the district in which it is located at the time of adoption of this Law.

NOXIOUS USE: Any use which is offensive or injurious, by reason of the emission of dust, smoke, refuse matter, odor, gas, fumes, noise or vibration. The term includes the operation of a hog farm, fur farm, slaughtering house or rendering works.

OUTDOOR SPECIAL EVENTS: Any outdoor business-related activity involving the service of alcohol to members of the public pursuant to a license or permit issued by the State of New York. The term is intended to include a restaurant or bar with outdoor seating, a business hosting a special event or promotion, or any outdoor concert, racing event, power show or other display, static or otherwise, open to the public.

OUTDOOR STORAGE: The keeping, in an unroofed area, of materials associated with the commercial or industrial use permitted on the lot.

OVERLAY DISTRICT: A zoning district that encompasses one or more underlying zoning districts and that imposes additional requirements above that required by the underlying zoning district.

ORDINANCE: The word Ordinance shall refer to The Town of Orleans Zoning Ordinance.

PARCEL: That amount of contiguous land falling under single ownership.

PARKING SPACE: An off-road space available for the parking of one (1) motor vehicle and having an area of not less than two hundred (200) square feet exclusive of passageways and accesses thereto, and having direct access to a road.

PERSON: Any person, firm, partnership, corporation, association or legal representative, acting individually or jointly.

POOL, SWIMMING: A structure or facility constructed to hold water at least three (3) feet deep and used by either private or public parties for recreational purposes.

PROFESSIONAL OFFICE: The use of a building and related spaces for such professional services as are provided by medical practitioners, lawyers, architects, engineers, real estate agents, and accountants, but not including veterinarians.

PUBLIC RIDING STABLES: A facility where horses are provided for riding, riding lessons may be offered and horses may be boarded and cared for on-site.

PUBLIC UTILITY FACILITY: A privately or publicly owned structure or facility that serves the general public or some of the public. Such facilities shall include, but not be limited to, sewage treatment plants, landfills, water supply facilities, power generating and distribution facility, radio transmitting centers, etc.

Town of Orleans Draft Zoning Law

RECREATIONAL FACILITY, PUBLIC OR PRIVATE: A municipally or privately owned and operated swimming pool, open space, tennis court, athletic field or similar facility for recreational use. This definition shall only apply to facilities which are operated for the general public, or members of a private organization, such as a country club.

RECREATIONAL VEHICLES: Motor homes, truck campers, camping trailers and similar vehicles less than 48 feet in length and used for recreational travel and part time living purposes.

RECREATIONAL VEHICLE - STORAGE YARD: Any lot or adjacent lots under single ownership on which five or more recreational vehicles, pleasure boats and trailers, pleasure aircraft, snowmobiles and other small motorized vehicles not intended for highway use are located regardless of their ownership or whether or not rent is charged for such accommodations.

RENTAL COTTAGE: A single unit or multi-unit building containing any combination of sleeping, kitchen and bathroom facilities used as lodging for short term or seasonal use on a commercial basis. This term excludes manufactured homes.

RESTAURANT: An establishment where food and drink are prepared, served, and consumed, mostly within the principal building.

RETAIL, LARGE PRODUCT: A lot or building, or portion thereof, used for the display and sales of new or used automobiles, mobile homes, modular homes, recreational vehicles, farm implements, and similar vehicles. The use may or may not include an office for transacting business or facilities for servicing and maintaining vehicles.

ROAD: A public thoroughfare for motor vehicles which affords the primary means of access to a parcel.

ROAD RIGHT OF WAY LINE: The dividing line between a lot and a road. When there is no established road right of way, the following will be used:

- A. Town roads - twenty-five (25) feet from the center line of the road.
- B. County roads - thirty-three (33) feet from the center line of the road.
- C. State roads - thirty-five (35) feet from the center line of the road.

SALVAGE/JUNK YARD: An area of land, with or without buildings, primarily used for the storage outside of a completely enclosed building; of used and discarded materials, including but not limited to waste paper, rags metal, building materials, house furnishings, machinery, vehicles or parts thereof, including junk, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The outdoor storage of two or more unregistered motor vehicles (excluding unregistered operative vehicles used in conjunction with the operation of a farm), tractor trailer boxes, or the major parts of two or more such vehicles, for a period of two months or longer, shall be deemed to make the lot a salvage/junk yard.

SETBACK: The distance between a lot line and a building line. The term is used to refer to front, side or rear distances.

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SHOPPING CENTER: A group of three or more commercial uses built on a site that is planned, developed, owned and managed as an operating unit related in location, size, and type of shops to the trade area that the unit serves; it provides on-site parking in specific relationship to the type and total size of the stores.

SIGN: Any display of letters, words, numerals, figures, devices, emblems, pictures, or any parts or combinations thereof which directs attention to a product, commodity or service available on the premises. A sign may be incorporated onto a building surface, free standing or attached to a building.

SIGN, FREESTANDING: Any nonmovable sign not affixed to a building. This includes pole signs and monument-style signs.

SIGN, OFF PREMISE DIRECTIONAL: A sign that indicates the direction to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

SIGN, TEMPORARY SPECIAL EVENT: Any sign that advertises an event or activity that has a duration of no more than 30 days.

SIGN, WALL: A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and that does not project more than 12 inches from such building or structure.

SITE PLAN REVIEW: The process by which the Planning Board reviews those uses in this Ordinance that requires site plan review.

SLAUGHTERHOUSE: A facility where farm animals are killed and processed into meat products or where dead animals are brought for processing into meat products.

SPECIAL PERMIT REVIEW: The process by which the Planning Board reviews those uses in this Ordinance that require a special permit.

SPECIFIED ANATOMICAL AREAS:

- A. Less than the completely and opaquely covered human genitals, pubic region or female breast below a point immediately above the top of the areola.
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES:

- A. Human genitals in a state of sexual stimulation or arousal.
- B. Acts of human masturbation, sexual intercourse or sodomy.
- C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

STORAGE BUILDING, COMMERCIAL: An accessory structure to a commercial use used for storage of

equipment, materials, etc.

STORAGE BUILDING, RESIDENTIAL: An accessory structure to a residential use for the purpose of inside storage, repair and/or maintenance of personal property of the landowner. Portable storage devices, tractor trailer boxes, mobile homes, and busses shall not be considered residential storage buildings.

STORAGE BUILDING, TEMPORARY: A building used during a construction project where supplies and or tools are stored on-site.

STORAGE FACILITY: A building or group of buildings containing separate, individual, and private storage spaces available for lease or rent for varying periods of time.

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

USE: The specific purpose for which any land, building or structure is used designed, arranged, intended, or occupied.

USE, ACCESSORY: A use customarily incidental and subordinate to the principal use and conducted on the same lot therewith.

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

USE, PRINCIPAL: The main or principal purpose for which any land, building or structure is used or occupied.

VARIANCE, AREA: The authorization by the zoning board of appeals for the use of land in a manner which is not allowed by the dimensional requirement of this Ordinance.

VARIANCE, USE: The authorization by the zoning board of appeals for the use of land in a manner or for a purpose which is otherwise not allowed or is prohibited by this Ordinance.

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

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

WHOLESALE ESTABLISHMENT: A commercial use primarily engaged in selling merchandise to other businesses, including retailers, industrial, commercial, institutional, or professional business users.

WIND ENERGY CONVERSION SYSTEM (WECS): A machine that converts the kinetic energy in the wind into a usable form (commonly known as wind turbine or windmill).

WIND ENERGY CONVERSION SYSTEM, SMALL: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce consumption of utility power at that location.

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

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

WIRELESS COMMUNICATIONS ANTENNA: An antenna designed to transmit or receive communications, as authorized by the Federal Communications Commission, including but not limited to whip, panel and \ or dish communication's antenna.

WIRELESS COMMUNICATIONS FACILITY: A facility for the provision of wireless communication services as defined by The Telecommunications Act of 1996 and usually consisting of equipment shelter, a mount and \ or a wireless communications antenna (s). Radio and television transmission towers and repeaters shall be included in the definition of wireless communications facilities.

YARD: An open space that lies between the building line and the nearest lot line.

YARD, FRONT: A space extending the full width of the lot between any building and the front lot line and measured perpendicular to the building at the closest point to the front lot line. For the purpose of this Ordinance the front yard of a waterfront lot shall be the yard between the building line and waterfront lot line.

YARD, REAR: A space extending the full width of the lot between any building and the rear lot line and measured perpendicular to the building at the closest point to the rear lot line. For the purpose of this Ordinance the rear yard of waterfront lot shall be the yard between the building line and the road line (or a point meeting the required setback distance, as measured from the building line).

YARD, SIDE: An unoccupied space extending from the front yard to the rear yard between the required side setback line and the nearest side lot line (or the required setback distance, as measured from the side setback line). A space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point to the principal building.

ZONING BOARD OF APPEALS: A board appointed by the Town Board whose principal duties are to consider requests for a variance from this Zoning Ordinance.

ZONING PERMIT: A permit issued under this Ordinance allowing the establishment of a new use or the construction, placement, or alteration of a building or structure.

ARTICLE 3 ESTABLISHMENT OF ZONING DISTRICTS

Section 3.01 Zoning Districts and Purpose

For the purpose of promoting the health, safety, and general welfare of the community, the Town of Orleans is hereby divided into the following zoning districts:

- A. Agricultural & Rural Residence District – AR: The primary purpose of this district is to promote agriculture, rural residences, open spaces, and other complementary uses.
- B. Rural Residence District: This District is located along the Seaway Trail, a NYS Scenic Byway. The primary purpose of this district is to maintain a more rural identity, by not allowing a multitude of commercial uses. This District was created from recommendations in the NYS Route 12 Sewer Corridor Plan adopted June 2004.
- C. Residential - Business District – RB: The primary purpose of this district is to promote and enhance residential areas and related small commercial uses.
- D. Business District – B: The primary purpose of this district is to promote a wide variety of commercial uses exclusive of industry.
- E. Resort One District - Res -1: The Resort One district is designated to promote residential neighborhoods, and certain support recreational uses which are compatible with the environment and local areas.
- F. Resort Two District - Res-2: This district is intended to promote residential neighborhoods and certain compatible recreational uses. However, uses and structures may be more densely situated in this district on lots of record because of the availability of water/sewer systems, and historical character.
- G. Industrial District – Ind: The purpose of this district is to promote industry in acceptable areas of the Town.
- H. Wind Energy Facility Overlay – WEFO: Property within the AR District where WECS uses are permitted in accordance with Orleans' Wind Energy Facilities Law, as the same may be amended from time to time.

Section 3.02 Zoning Map Certification

- A. The boundaries of the above-named zoning districts are bounded as shown on the map entitled "Zoning Map, Town of Orleans", dated [REDACTED] and filed in the Town Clerk's Office, a copy of which is hereby made a part of the Ordinance.
- B. Any changes in district boundaries or other matter shown on the map shall be promptly made on the map, with a signed statement describing the nature and date of the change.

Section 3.03 Interpretation of District Boundaries

- A. Where uncertainty exists with respect to the exact boundaries of districts as shown on the Zoning Map, the final decision will be made by the Zoning Board of Appeals (ZBA).
- B. Where a zoning district boundary line divides a lot in single or joint ownership, existing at the time of enactment of this Ordinance, the use authorized on, and the zoning district requirements of the most restrictive district of such lot shall be understood as extending to the entire lot.
- C. District Boundary lines generally follow or parallel, at set distances, center lines of roads, existing lot lines, and other manmade and natural features. The Enforcement Officer shall be given the authority to scale these districts from the Zoning Map and relate them to accurate ground points.

ARTICLE 4 DISTRICT USE AND DIMENSIONAL REGULATIONS

Schedule 4.01 Use Regulations	
AGRICULTURE AND RURAL RESIDENCE DISTRICT	
Permitted Uses	
Accessory use & building for Permitted Uses Agricultural operation Home occupation	Manufactured home Single family dwelling Two family dwelling
Site Plan Review Uses	
Accessory use/ building for Site Plan Uses Agricultural Business Agricultural processing plant Airstrip Animal hospital Automobile service station Billboard Campground Cemetery Community facility Convenience store Crematorium Drive-in restaurant Drive-in theater Fraternal organization Hog or Fur farm Industrial Operation Large commercial enterprise Large Product Retail *	Machine and welding shop Manufactured home park Motel/Hotel Multiple family dwelling Professional office Public or Private recreational facility Public riding stable Public utility facility Recreational Vehicle Storage Yard Rental cottages Restaurant Shopping center Signs Slaughterhouse Small commercial enterprise Storage Facility Wholesale Establishment

* Wind Energy Conversion Systems as regulated by the Wind Energy Facility Overlay and the Wind Energy Facilities Law, as the same may be amended from time to time.

Special Use Permits	
Above Ground Fuel Storage Tank above 1,000 gal Accessory use/ building for Special Permit Uses Bar Mining operation Multiple principal uses on one lot *	Nightclub Off-Premise Directional Sign Outdoor special events Salvage/ junkyard Wireless communications facility
RURAL RESIDENCE DISTRICT	
<u>Permitted Uses</u>	
<u>Accessory use/building for Permitted Uses Home Occupation</u>	<u>Single Family Dwelling</u> <u>Two Family Dwelling</u>
<u>Site Plan Review Uses</u>	
<u>Special Use Permits</u>	
<u>Accessory use & building for Special Permit Use</u> <u>Off-Premise Signs</u>	<u>Multiple principal uses on one lot</u>
RESIDENTIAL - BUSINESS DISTRICT	
<u>Permitted Uses</u>	
<u>Accessory use/building for Permitted Uses</u> <u>Home occupation</u> <u>Manufactured home-at least 800 square feet</u>	<u>Single family dwelling</u> <u>Two family dwelling</u>

* Wind Energy Conversion Systems as regulated by the Wind Energy Facility Overlay and the Wind Energy Facilities Law, as the same may be amended from time to time.

Site Plan Review Uses	
Accessory use/building for Site Plan Review Uses Animal Hospital Automobile service station Community facility Convenience store Drive-In Restaurant Fraternal organization Large product retail Machine and Welding Shop Motel/Hotel Multiple family dwelling	Professional office Public or Private recreational facility Public utility facility Rental cottages Restaurant Shopping center Signs Small commercial enterprise Storage Facility
Special Use Permits	
Accessory use/building for Special Permit Uses Bar Multiple principal uses on one lot	Nightclub Off-Premise Directional Sign Outdoor Special Events
BUSINESS DISTRICT	
Permitted Uses	
Accessory use/building for Permitted Uses Agricultural operation Home occupation	Manufactured home-at least 800 square feet Single family dwelling Two family dwelling

Site Plan Review Uses	
Accessory use/ building for Site Plan Uses Agricultural business Animal Hospital Automobile service station Billboard Campground Community facility Convenience store Drive-In Restaurant Fraternal Organization Industrial operation Large commercial enterprise Large product retail	Machine and Welding Shop Motel/Hotel Multiple family dwelling Professional office Public and Private recreational facility Public utility facility Recreational Vehicle Storage Yard Restaurant Shopping center Signs Small commercial enterprise Storage Facility Wholesale Establishment
Special Use Permits	
Accessory use & building for Special Permit Uses Bar Multiple principal uses on one lot Nightclub	Off-Premise Directional Sign Outdoor special events Wireless communications facility
RESORT ONE DISTRICT	
Permitted Uses	
Accessory use/building for Permitted Uses Agricultural operation Home occupation	Manufactured home-at least 800 square feet Single family dwelling Two family dwelling

Site Plan Review Uses	
Accessory use/building for Site Plan Uses Automobile service station Campground Cemetery Community facility Convenience store Fraternal organization Large commercial enterprise Machine and Welding Shop Marina Motel/Hotel	Multiple family dwelling Professional office Public or Private recreational facility Public utility facility Recreational Vehicle Storage Yard Rental cottages Restaurant Signs Small commercial enterprise Storage Facility
Special Use Permits	
Accessory use/building for Special Permit Uses Bar Multiple principal uses on one lot	Off-Premise Directional Sign Outdoor special events
RESORT TWO DISTRICT	
Permitted Uses	
<u>Accessory use/building for Permitted Uses</u> Home occupation	Single family dwelling Two family dwelling
Site Plan Review Uses	
Accessory use/ building for Site Plan Uses Community facility Fraternal organization Marina Multiple family dwelling Professional Office	Public or Private recreational facility Motel/Hotel Public utility facility Restaurant Signs Small commercial enterprise Storage Facility
Special Use Permits	
Accessory use/ building for Special Uses Bar Multiple principal uses on one lot	Off-Premise Directional Sign Outdoor special events

INDUSTRIAL DISTRICT	
Permitted Uses	
Accessory use/building for Permitted Uses Agricultural Operation	
Site Plan Review Uses	
Accessory use/building for Site Plan Uses Agricultural Business Agricultural Processing Plant Industrial operation Large commercial enterprise Machine and Welding Shop	Public utility facility Restaurant Small Commercial Enterprises Signs Wireless communications facility Wholesale Establishment
Special Use Permits	
Accessory use/building for Special Uses Adult entertainment use	Multiple principal uses on one lot

Schedule 4.02 Dimensional Regulations								
District Use	Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Front Yard (Feet) ⁽¹⁾	Minimum Side Yard (Feet)	Minimum Rear Yard (Feet)	Maximum Lot Coverage	Maximum Height (*) (Feet)	
Agricultural & Rural Residential								
Permitted Uses	15,000	100	30	20	20	50%	35	
Accessory Uses / Signs	---	---	30	20	20	---	35	
Site Plan Review/Special Use Permit	15,000	100	30	20	20	50%	35	
Lot of Record	7,500	50	30	10	10	50%	35	
Rural Residential								
Permitted Uses	15,000	100	30	20	20	50%	35	
Accessory Uses	---	---	30	20	20	---	35	
Site Plan Review/Special Use Permit	1 acre	300	30	20	20	50%	35	
Lot of Record	7,500	50	30	10	10	50%	35	
Residential Business								
Permitted Uses	15,000	100	30	15	15	50%	35	
Accessory Uses / Signs	---	---	30	15	15	---	35	
Site Plan Review/Special Use Permit	15,000	100	30	15	15	50%	35	
Lot of Record	7,500	50	30	15	15	50%	35	

Schedule 4.02 Dimensional Regulations							
District Use	Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Front Yard (Feet) ⁽¹⁾	Minimum Side Yard (Feet)	Minimum Rear Yard (Feet)	Maximum Lot Coverage	Maximum Height (*) (Feet)
Business							
Residential Uses	15,000	100	30	15	15	50%	35
Business Uses	15,000	75	10	0 (1)	15	50%	35
Accessory Uses / Signs	---	---	10	---	15	---	35
Site Plan Review/Special Use Permit	7,500	75	10	0 (1)	15	50%	35
Lot of Record	5,000	50	10	0 (1)	10	50%	35
Resort One with Municipal Sewer connection							
Permitted Uses	11,250	75	30	20	20	50%	35
Accessory Uses / Signs	---	---	30	20	20	---	35
Site Plan Review/Special Use Permit	11,250	75	30	20	20	50%	35
Lot of Record	7,500	50	10	10	10	50%	35
Resort One without Municipal Sewer connection							
Permitted Uses	15,000	75	30	20	20	50%	35
Accessory Uses / Signs	---	---	30	20	20	---	35
Site Plan Review/Special Use Permit	15,000	75	30	20	20	50%	35
Lot of Record	7,500	50	10	10	10	50%	35

Schedule 4.02 Dimensional Regulations								
District Use	Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Front Yard (Feet) ⁽¹⁾	Minimum Side Yard (Feet)	Minimum Rear Yard (Feet)	Maximum Lot Coverage	Maximum Height (*) (Feet)	
Resort Two								
Permitted Uses	11,250	75	30	20	20	50%	35	
Accessory Uses	---	---	30	20	20	---	35	
Site Plan Review/Special Use Permit	11,250	75	30	20	20	50%	35	
Lot of Record	6,000	50	10	10	10	50%	35	
Industrial								
Permitted Uses	15,000	100	30	15	15	50%	35	
Accessory Uses	---	---	10	---	15	---	35	
Site Plan Review/Special Use Permit	15,000	100	30	15	15	50%	35	

ARTICLE 5 PLANNED DEVELOPMENT DISTRICTS

Section 5.01 General Intent and Objectives

- A. From time to time, Planned Development Districts may be established in the Town and designated as specific locations on the Zoning Map. The purpose for establishing such districts is to allow compatible development of a variety of uses (e.g., residential, commercial, recreational, historical, etc.) and to vary the strict application of these regulations.
- B. It is the intent of this Planned Development District (PDD) Article to provide flexible land use and design regulations through the use of performance criteria so that small-to-large scale neighborhoods or portions thereof may be developed within the Town that incorporate a variety of residential types and nonresidential uses, and contain both individual building sites and common property which are planned and developed as a unit. Such a planned unit is to be designed and organized so as to be capable of satisfactory use and operation as a separate entity without necessarily needing the participation of other building sites or other common property in order to function as a neighborhood. This Article specifically encourages residential development so that the growing demands for housing at all levels may be met by greater variety in type, design, and siting of dwellings and by the conservation and more efficient use of land in such developments. Planned developments do not require a mix of residential and nonresidential uses to be considered for Planned Development District status.
- C. This Article recognizes that while the standard land use functions (use and bulk) are appropriate for the regulation of land in some areas or neighborhoods, these controls represent a type of regulatory strictness which may be detrimental to the innovative techniques of quality land development contained in the Planned Development District concept. Further, this Article recognizes that a rigid set of space requirements along with bulk and use specification would frustrate the application of this concept. Thus, where PDD techniques are deemed appropriate through the rezoning of land to a Planned Development District by the Town Board, the use and dimensional specifications found elsewhere in these regulations are herein replaced by an approval process based upon the performance criteria outlined in this Article, and conditions prescribed by the Planning Board and the Town Board.

Section 5.02 General Requirements and Review Criteria

- A. Requirements for consideration as a Planned Development District: Following is a list of the requirements that a proposal must meet to be considered for PDD status.
 - 1. Minimum Area: The district must comprise at least ten (10) acres of contiguous land.
 - 2. Ownership: The tract of land for a project may be owned, leased or controlled either by a single person, or corporation or by a group of individuals or corporations. An application must be filed by the owner or the holder of a valid purchase offer or development option of all property included in a project. In the case of multiple ownerships, the approved plan shall be binding on all owners.

3. Location of PDD: The PDD shall be applicable to any area of the Town where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this Article.
4. Permitted Uses: Following are descriptions of residential and nonresidential uses permitted in the Planned Development District. These uses may be mixed, separated or the development may accommodate only one type of use.
 - a. Residential Uses - Residences may be of the following varieties; single-family dwelling units, two-family dwelling units and multiple-family dwelling units. No manufactured homes will be permitted.
 - b. Nonresidential uses may include, small commercial enterprise, convenient store, motel/hotel, professional office, restaurant, public and private recreational facilities, home occupations, community facility, restaurants, marinas. All such uses shall be in keeping with the residential character of the proposed district and adjacent areas.
 - c. The nonresidential uses of a commercial nature may be in separate buildings or incorporated within two-family or multi-family structures or in suitable combinations of these alternatives.
 - d. Customarily accessory uses, such as private garages and storage sheds shall also be permitted as appropriate to the PDD.
5. Common Property in the PDD: Common property is not required to be considered for PDD status, however, it is often characteristic of such proposals. Common property in a PDD is a lot or lots of land, with or without the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites. When common property exists in private ownership, satisfactory arrangements must be presented for the improvement, operation and maintenance of such common property and facilities, including private roads, service and parking areas, and recreational and open space areas.
6. The Planning Board shall use the Site Plan Review General Performance Criteria as outlined in Section 7.5 as criteria for final review of all planned development districts.

Section 5.03 Procedure

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

- A. Application for establishment of a Planned Development District shall be made to the Town Board by the owner(s), or a duly authorized agent, of property proposed to be included in the district at a regular or special meeting of the Town Board.
- B. Application shall be on forms provided by the Town Board, be accompanied by the appropriate fee, and contain all requirements necessary for consideration as a preliminary site plan as determined by the Planning Board.

- C. The Town Board shall refer the submitted materials to the Planning Board for their consideration and recommendation within seven (7) days of receipt.
- D. Within sixty-two (62) days of a PDD referral the Planning Board shall report its recommendations to the Town Board. The recommendations shall address the following findings:
 - 1. The proposed uses will not be detrimental to present or potential surrounding uses.
 - 2. Land surrounding the proposed development is compatible in use and can be planned in coordination with the proposed development.
 - 3. The proposed change is in conformance with the general intent of the comprehensive plan for the community.
 - 4. Existing and proposed roads are suitable and adequate to carry anticipated traffic within and around the proposed development.
 - 5. Existing and proposed utility services are adequate for the proposed development.
 - 6. Each phase of the proposed development, as it is proposed to be completed, contains the required parking, landscaping, and utilities necessary for creating and sustaining a desirable and stable environment.
- E. Within sixty-two (62) days of the Planning Board's report, the Town Board shall conduct a public hearing, pursuant to all the requirements of this, and other appropriate laws regarding publication, notification and referral.
- F. If the Town Board approves, or approves with conditions, the creation of the Planned Development District, and after the appropriate filing procedures for amendments have been completed by the Town, the applicant must, within six (6) months, submit an application for site plan review to the Planning Board in accordance with Article 7 of this Zoning Ordinance.
- G. Any substantial change in the site plan, from the PDD approved by the Town Board, shall require a new approval by the Town Board.
- H. The Planning Board shall determine what revisions constitute a substantial change. However, they shall consider such features as the following:
 - 1. A major change in the uses or character of the development;
 - 2. An increase in the overall coverage of structures;
 - 3. An increase in density of structures or intensity of use;
 - 4. A major decrease in the amount of open space or recreation land.

- I. Any specific requirements approved in the formation of a Planned Development District shall be made part of this Ordinance.
- J. Approved PDDs shall be numbered and listed in Section 3.1 of the Ordinance. The Town Zoning Map shall also be amended to show the location of and identify the PDD.

ARTICLE 6 GENERAL REGULATIONS

Section 6.01 Signs

A. General Sign Regulations for All Districts

- 1. All signs shall require a site plan review, except as allowed for temporary special event signs in paragraph 5 below.
- 2. Signs which are mechanically moving, flashing, animated or otherwise in motion shall not be permitted unless required for public safety purposes, as identified by a unit of government.
- 3. Illuminated signs must not cause traffic hazards to nearby roads or waterways and shall not produce glare toward residential areas. All such areas must be shielded from such direct illumination.
- 4. Any commercial use, institution or other advertising entity that ceases operations (in other than a seasonal manner) shall remove its signs within 90 days of such cessation (extensions may be granted by the Planning Board).
- 5. Two temporary special event signs shall be permitted. These signs shall advertise events, activities or other similar instances that will be terminated on a set date. Yard sales, garage sales and similar on-lot sales shall be considered temporary activities and as such, signs advertising such events shall fall under the requirements of this section. No such sign shall exceed four (4) square feet in area. Such signs shall be removed at the end of the event by the sponsor of the event or those who placed the sign.
- 6. No sign shall be installed to interfere with traffic safety.
- 7. Any nonconforming sign existing at the time of the adoption of this Ordinance, or an amendment thereto, shall only be replaced by a sign conforming to the regulations of this Section.
- 8. Signs are considered accessory uses and shall meet the yard requirements of the respective district in which they are located.
- 9. No sign shall exceed 25 feet in height or extend above the facade of a building to which it is attached.
- 10. For Home Occupations, one identification sign is permitted and shall not exceed four (4) square feet in area.

11. Each use is allowed one freestanding sign and one wall sign as long as the maximum square feet allowed is not exceeded.

B. Agricultural and Rural Residence District sign regulations.

1. The top of a free standing sign shall not exceed 10 feet in height unless otherwise approved by the Planning Board.
2. All signs shall be properly maintained.
3. Free standing signs and signs that are a part of the building surface or flush with the surface may not exceed 32 square feet in area.

C. Residential - Business District and Business District sign regulations.

1. The top of a freestanding sign shall not exceed ten (10) feet in height.
2. No freestanding sign shall exceed eight (8) square feet in area.
3. Signs that are a part of the building surface, or flush with it, may exceed the eight (8) square feet in area required in this Section, however, they shall not be larger than 32 square feet in area.

D. Resort Districts I and II sign regulations.

No sign shall exceed four (4) square feet in area

E. Off Premise Directional Signs

1. Off Premise Directional Signs shall require a special use permit.
2. Off Premise Directional Signs shall meet the yard requirements of accessory uses.
3. Off Premise Directional Signs shall not exceed ten (10) feet in height.
4. Off Premise Directional Signs may consist of any or all of the following: name of business, logo of business, directional arrow, or mileage to business.
5. Off Premise Directional Signs in the Resort I and Resort II Districts shall not exceed four (4) square feet in area. Off Premise Directional Signs in the remaining districts shall not exceed six (6) square feet in area. Two sides of the sign may be used.
6. Off Premise Directional Signs shall not be artificially lit.
7. Off Premise Directional Signs shall be installed so as not to interfere with traffic safety.
8. Multiple businesses may locate a sign on the same structure, as long as all other requirements of this section are met.

- 9. Each business shall be allowed a maximum of two off premise directional signs to guide clients to the business location.
- 10. Proof shall be provided that the sign applicant has permission from the landowner to place a sign on the property.

Section 6.02 Billboards

- A. All billboards shall require a zoning permit.
- B. No billboard shall exceed 25 feet in height or extend above the facade of a building to which it is attached.
- C. A distance of one-half mile, on either side of a road shall be maintained between billboards which are visible from the road. Back-to-back billboards or billboards diverging by less than 30 percent from a common point may be counted as one billboard.
- D. Free standing billboards shall have a minimum front setback of thirty (30) feet and a side setback of fifteen (15) feet.
- E. Surface measurements of billboards shall not include supports or supporting members in determining the overall surface area square footage.
- F. All billboards shall be properly maintained
- G. All off-premise billboards shall also meet the requirements of the NYS Department of Transportation Sign Program.

Section 6.03 Individual Manufactured Homes

All manufactured homes shall meet the following requirements:

- A. Manufactured homes shall be skirted with an all-weather, solid material around the entire carriage base. This shall be so placed as to prevent the wind from circulating under the floor of the manufactured home.
- B. A manufactured home used as a tenant residence on a farm will be permitted provided that required yards are met and it is placed no closer than 80 feet to a farm house or any farm building.
- C. All manufactured homes shall have a pitched, uniform material roof, and have siding that is residential in appearance.

Section 6.04 Waterfront Property

- A. For the purpose of this Ordinance the front yard of waterfront property shall be the yard between the building line and waterfront lot line. The waterfront lot line shall be measured from the mean high water mark.

- B. For the purpose of this Ordinance, the rear yard of waterfront property shall be the yard between the building line and the road line (or a point meeting the required setback distance, as measured from the building line).

Section 6.05 Docks and Boathouses

Docks, boathouses, and other similar marine accessory uses shall be allowed in the Resort I and Resort II Districts under the following regulations.

- A. Such uses do not have to meet the yard setback requirements of Article 4, Schedule 4.2, and may be located on the waterfront lot line.
- B. Boathouses may be used as a principal residence only upon permission of the Planning Board under Site Plan Review.

Section 6.06 Lots of Record

In all districts, a Substandard Lot of Record may be constructed upon, provided minimum yard requirements (as set forth in Article 4, Schedule 4.2, permitted uses (as set forth in Article 4, Schedule 4.1), and other Town Laws and Zoning Ordinance regulations are followed. Any deviation from the above requirements requires a variance. A permit for any proposed construction on such a lot is required, as set forth under this Ordinance.

Section 6.07 Corner Lots

Yards fronting on roads shall be considered front yards and the remaining yards shall be considered side yards. There are no rear yards. All yards shall meet the appropriate setbacks.

Section 6.08 Parking and Loading

- A. In connection with every building or building group or part thereof and having a gross floor area of 4,000 square feet or more, which is to be occupied by manufacturing or commercial uses or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained, on the same lot with such building, a minimum number of off-road loading berths or unloading berths as follows:
 - 1. 4,000 - 25,000 square feet- 1 berth
 - 2. 25,001 - 40,000 square feet- 2 berths
 - 3. 40,001 - 60,000 square feet- 3 berths
 - 4. For each additional 50,000 square feet - 1 berth

B. The following are minimum parking standards which must be adhered to.

	Use	Required Parking
1	Community Facility	1 for each 200 square feet of gross floor area, or 1 for each 3.5 seats, whichever is greater
2	Motel/Hotel, Rental Cottage	1 for each sleeping room
3	Industrial Operation	1 for each employee in the maximum working shift.
4	Restaurant	1 for each 50 square feet of patron space.
5	Small Commercial Enterprise, Shopping Center	1 space for each 200 square feet of floor space, plus 1 for each employee.
6	Wholesale Establishment	1 for each employee in maximum shift.
7	Office – general	1 for each 200 square feet of first floor area and each 300 square feet of floor area on the second floor and above.
8	Doctor or Dentist Office	5 for each doctor or dentist.
9	Home Occupation	Minimum of 3 spaces.
10	Dwelling Unit	2 for each dwelling unit.
11	Recreational Facility	Determined by the Planning Board during review.

Section 6.09 Parking Lots

In the respective districts, parking lots for places of public assembly, commercial uses or industrial uses shall be at least 20 feet from all lot and road lines. There shall be an exit and entrance to accommodate travel concurrently. The placement of the lot shall not impede traffic safety. The lot shall not be located in a required yard except where this Ordinance permits such placement.

Section 6.10 Swimming Pools

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

- A. Not be closer than ten (10) feet to a lot line or 30 feet from a road line; and
- B. Conform to the regulations of the NYS Building Code for swimming pools. These regulations include a forty-eight inch (48") barrier surrounding the pool that will not allow the passage of children through the barrier as well as prevent climbing over the barrier.

Section 6.11 Roads

In all districts, all roadways that are constructed by private individuals or enterprise, and which serve or are intended to serve the public as a public thoroughfare, shall meet Town Highway and road standards set forth by the Town Board. Such standards include grade, horizontal curves, right of way, width of the surface, type of surface, line of sight, tangents, shoulders, driveways and drainage.

Section 6.12 Building Height

- A. The maximum building height is thirty-five (35) feet.
- B. Any public building, school, church, hospital or other institution radio and T.V. antenna, water tower, observation tower or farm building or structure other than a dwelling unit may be erected or altered to a height exceeding thirty-five (35) feet, provided that for each foot over thirty-five (35) feet, the front, side and rear yards required therefore shall be increased an additional foot and such building or structure shall be erected or altered not closer than the height thereof to any dwelling unit on the same or any other lot.
- C. Cell towers shall adhere to the height regulations contained in Section 8.10.

Section 6.13 Home Occupation

Home occupation uses are permitted in all districts (except Industrial). Following is a list of criteria that they must meet:

- A. Not more than five (5) people shall be employed at such use, including residents of the dwelling unit.
- B. The use must be conducted within the dwelling unit.
- C. No unsafe traffic conditions shall be produced by vehicles at the use, because of sign placement.
- D. No objectionable odors, noise or unsightly conditions shall be encountered by neighboring properties.

Section 6.14 Fences and Walls

- A. In all districts, fences and walls 3½ feet or less in height are acceptable, but shall require a permit from the Enforcement Officer of the Town of Orleans.
- B. All such fences shall be kept in good structural repair and maintenance so that they do not constitute a safety hazard to members of the public.
- C. The finished, or good side, of each fence shall face the adjoining properties.
- D. No wall, fence, hedge or other screening which is greater than 3½ feet in height above the nearest pavement edge of intersecting roads shall be permitted within the area formed by any intersecting road, right-of-way, line and a yard described at a radius of thirty (30) feet from the point of intersection of such lines.
- E. Such fence shall not be electrified nor shall any such fence be comprised of barbed wire, razor wire, or other dangerous materials.
- F. Any fence or wall used for agricultural purposes is specifically exempt from the above

requirements.

Section 6.15 Farm Livestock

In the appropriate districts, all farm livestock such as cows, pigs, horses and other similar animals (as determined by the Board of Appeals) shall not wander at large, and create a public nuisance (i.e., traffic hazards, etc.). Rather, they shall be sufficiently restrained by a pen, fence, building or other similar facility.

No structure used for livestock purposes shall be placed closer to a residential building line than 50 feet, except for the farmstead.

Section 6.16 Recreational Vehicles

Recreational vehicles, campers and similar vehicles (as determined by the Board of Appeals) are permitted in any district, provided they are not parked in a required yard or other location where they will inhibit traffic and \ or fire safety. Such vehicles may be used as a temporary residence for a period not to exceed one (1) month pursuant to Special Permit issued by the Planning Board.

Section 6.17 Soil Restoration

Whenever the soil has been removed or covered under by fill on any area of land of more than one acre, such area shall be seeded to provide an effective cover within the first growing season following the end of such operation.

Section 6.18 Front Yard Setbacks

In any district, for any lot where the front yards on the adjacent lots on either side are less than the minimum front yard requirements at the time of enactment of this Ordinance, the required front yard may be reduced to the average of the yards on the adjacent lots, but not less than 10 feet or 5 feet on a lot of record from the lot line or road line.

Section 6.19 Residential Storage Buildings

- A. In the Resort 1, Resort 2, Residential-Business, and Business Districts, Residential Storage Buildings shall not exceed 650 square feet in size.
- B. In the Agricultural Rural Residence District, Residential Storage Buildings shall not exceed 2,000 square feet in size.

Section 6.20 Temporary Storage Buildings

- A. Temporary storage buildings may be allowed for the storage of construction tools and materials during the construction of a building.
- B. Temporary storage buildings shall be removed within ten (10) days of the completion of construction.

ARTICLE 7 PROJECT REVIEW

Section 7.01 Purpose

It is the intent of this Article to promote the health, safety, and general welfare of the Town through project review. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the Town, and in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the Town and the general welfare of its inhabitants. It is intended for the Planning Board to attach reasonable safeguards and conditions to those uses that might otherwise produce deleterious effects on the environment, the rural and scenic character of the Town or the Town residents' health, safety and welfare.

Section 7.02 Site Plan Review

A. Authority

Pursuant to authority delegated in accordance with Section 274-a of the Town Law of the State of New York, the Town Board hereby authorizes the Planning Board to review and approve, approve with modification or disapprove site plans.

B. Applicability

Site plan review uses shall be controlled by the regulations in this Article in addition to the regulations that apply in each district or for specific uses. No zoning permit or certificate of compliance shall be issued for any use or structure requiring site plan review until approval has been granted by the Planning Board.

Section 7.03 Special Use Permits

A. Authority

Pursuant to authority delegated in accordance with Section 274-b of the Town Law of the State of New York, the Town Board hereby authorizes the Planning Board to grant special use permits as set forth in this law.

B. Applicability

Uses requiring a special use permit shall be controlled by the regulations in this Article in addition to the regulations which apply in each district or for specific uses. No zoning permit or certificate of compliance shall be issued for any use or structure requiring a special use permit until approval has been granted by the planning board.

Section 7.04 Application Requirements

- A. An application for project review shall be made on forms prescribed by the Town. Five copies, minimum, of all materials shall be submitted to the board by the applicant. Extra copies as may be deemed necessary by the Planning Board may be required. The following

information shall be required of all applications, unless specifically waived by the Planning Board:

- B. Name and address of applicant and owner, if different, and of the person responsible for the preparation of such drawing;
1. Date, north arrow, written and graphic scale;
 2. Boundaries of the parcels plotted to scale, including distances, bearings, and areas;
 3. The current zoning classification of the property, including the exact zoning boundary if in more than one district;
 4. A complete outline of existing or proposed deed restrictions or covenants applying to the property;
 5. Location and ownership of all adjacent lands as shown on the latest tax records;
 6. A written description of all proposed uses and activities on the site, including the number and distribution by type of all dwelling units;
 7. Location, name, and existing width and right-of-way of adjacent roads, including traffic circulation patterns;
 8. Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use adjoining the property;
 9. Location, size, and design of the following: existing, proposed, and alterations to buildings, driveways, parking and loading areas, outdoor storage areas, sidewalks or pedestrian paths, drainage facilities, sewage facilities, water facilities, signs, outdoor lighting, landscaping or screening, buffer areas, snow storage areas; walls and fences, energy distribution facilities, fire lanes and other emergency zones;
 10. Plans for controlling soil erosion and sedimentation during development;
 11. Plans for grading and drainage showing existing and proposed contours of five foot intervals;
 12. Significant or outstanding natural features of the property (e.g. wetlands, streams, high-water lines, cliffs, dense vegetation, etc.);
 13. Designation of the amount of gross floor area and gross leasable area proposed for each nonresidential use;
 14. Project construction schedule and staging phases, if applicable;
 15. An Environmental Assessment Form (EAF) or draft Environmental Impact Statement (EIS), pursuant to 6 NYCRR Part 617, where required;

16. An agricultural data statement, pursuant to Town Law Section 283-a, when applicable;
17. A statement with the name, address and the nature and extent of the interest of any state employee, or any officer or employee of the town in the application pursuant to General Municipal Law Section 809, when applicable;
18. Other elements integral to the proposed development as considered necessary by the Planning Board including identification of any federal, state, or county permits required for the project's execution;
19. A performance bond associated with the development and/or abandonment or discontinuance of use may be required.
20. Application fee as stated in the fee schedule adopted by the Town.

Section 7.05 Procedure

- A. Pre-Submission Conference. The applicant is encouraged to request and attend a pre-submission conference with the Planning Board prior to formal submission of an application. This conference may be used to discuss rough conceptual drawings, proposed uses, the possible waiver of submission requirements, the review procedure and the criteria that the project must meet.
- B. Waiver of Requirements. The Planning Board is empowered to waive, when reasonable, any application requirements. Such waiver may be exercised in the event requirements are found not to be requisite in the interest of the public health, safety or general welfare and inappropriate to a particular special permit. The reasons for, and the scope of any such waiver granted by the Planning Board shall be in writing and entered into the minutes of the board.
- C. Public Hearing. Once a completed application has been formally accepted by the Planning Board at a public meeting of the board, the board shall have a maximum of 62 days to hold a public hearing on the application to entertain public comment, unless the hearing is waived. This time period may be extended upon the mutual consent of the Planning Board and the applicant. A waiver of the hearing shall NOT be allowed in any one of the following circumstances:
 1. the use requires a special use permit pursuant to this law;
 2. the use is a Type I action according to the State Environmental Quality Review Act;
 3. the use is over 2,000 square feet of floor or ground area;
 4. the use is over 35 feet in height;
 5. the use requires an increase or change in public water supply facilities, sewerage facilities, drainage facilities, sidewalks, roads, curbs, gutters, or other public improvements;

6. the applicant has requested a public hearing.

D. **Public Hearing Notice.** At least five days advance public notice of the hearing shall be published in a newspaper in general circulation in the town. A notice of the hearing shall be mailed to the applicant at least ten days before the hearing. The notice shall also be mailed to any farm operations listed on the agriculture data statement.

E. **County Planning Board Review**

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

1. the boundary of the town or any village within the town;
2. a state or county park or recreation area;
3. a state or county highway or expressway;
4. a state or county owned drainage channel;
5. state or county land where a public building or institution is located; or
6. the boundary of a farm operation located within a NYS Certified Agricultural District.

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

F. **State Environmental Quality Review.** The Planning Board shall be responsible for the completion of an environmental assessment form (EAF) and for compliance with 6 NYCRR Part 617 (State Environmental Quality Review Act regulations) in cooperation with other involved agencies in the review of any application. The Planning Board shall complete its environmental review and make an environmental determination prior to final action on the application.

G. **Final Decision.** The final decision by the Planning Board must be made within 62 days following the close of the public hearing, or where the public hearing has been waived, within 62 days of the official submission date. The decision shall be in writing, specifying any conditions that may be attached to an approval, the reasons that the Planning Board approved, approved with modifications or disapproved the proposal, and the motions/vote of

the Planning Board . This time period may also be extended upon the mutual consent of the Planning Board and the applicant.

- H. Filing of Decision. All decisions shall be filed in the office of the Town Clerk within five business days of final action, and a copy mailed to the applicant. Within 30 days of final action on any matter referred to the County Planning Board, the Planning Board shall file a report of the final action with the County Planning Board.
- I. Conditions on Approval. In its approval, the Planning Board shall have the authority to impose such reasonable conditions and restrictions on the issuance of a zoning permit for the application as are directly related to and incidental to a proposed site plan. Upon approval of the project, any such conditions must be met in connection with the issuance of permits by the Enforcement Officer.
- J. Area Variance. Notwithstanding any provisions of the Ordinance to the contrary, where a proposed project contains one or more dimensional or physical features which do not comply with the Zoning Ordinance, application may be made to the ZBA for an area variance without the necessity for a decision or determination of the Enforcement Officer.
- K. Expiration of Site Plan Reviews and Special Use Permits

Site plan review decisions and special use permits shall expire six months from the date of issue unless substantial progress has been made towards carrying out the terms of planning board decision. The applicant shall have two years to complete the terms of the decision, or all work shall cease at the site. An extension may be allowed by the enforcement officer upon proof of necessity submitted by the applicant due to conditions unusual or beyond the control of the applicant.

Section 7.06 General Performance Site Plan Review Criteria

Following is a list of performance site plan review criteria that the quality of the development proposal must be assessed against. The Planning Board may specify certain standards in line with these criteria that the developer must then comply with. The Planning Board shall not be limited to reviewing and setting criteria only in the following areas.

- A. Vehicular Traffic. There shall be adequate arrangement of safe vehicular traffic access and circulation, including intersections, road widths, curb cuts, channelization structures and traffic controls. These shall adhere to Town specifications and standards to which such facilities must be constructed. New York State Department of Transportation and Jefferson County Highway access location approvals shall be obtained first on the roads under their jurisdiction.
- B. Pedestrian Traffic. There shall be adequate arrangement of pedestrian access and circulation including: separation of pedestrian areas from vehicular traffic, walkway structures, control devices at intersections, and other pedestrian safety features. This shall also include specifications and standards to which such facilities shall be constructed.
- C. Parking. There shall be adequate location, arrangement, appearance and sufficiency of off-

road parking and loading to meet the proposed uses. Construction specifications may be set by using the off-road parking and loading requirements (found in Section 6.09) as a guide.

- D. Site Arrangement. There shall be adequate location, arrangement, size and design of buildings, lighting and signs. All uses shall complement each other and not be offensive to the District or adjacent areas/uses.
- E. Landscaping & Buffering. There shall be adequate type and arrangement of trees, shrubs and other landscaping when constituting a visual and/or noise deterring buffer between competing adjacent uses and adjoining lands. The proposed use shall be landscaped to insure a sightly appearance. This shall insure adequate vegetative ground cover to eliminate erosion and promote aesthetics. Existing trees shall be retained where possible. The Board may set minimum standards in this regard. When a commercial site plan review use abuts a residential property the Planning Board may find it necessary to require screening of sufficient height and density (i.e. fences, hedges, etc.) to reduce or eliminate the conflicting environmental conditions previously mentioned.
- F. Recreation. In the case of apartment houses, mobile home parks, or multiple dwelling units, there shall be adequate availability of open space for playgrounds and other types of informal recreation.
- G. Utilities. There shall be adequate provision of storm-water facilities, drainageways, sanitary waste disposal facilities, and other utilities to serve the site. The applicant shall assure that all such connections/installations are made in a timely fashion and prior to final project approval and operation. Such connections and installations shall be made according to specifications established by the Town. All uses shall meet NYS State sanitary waste provisions (N.Y.S. Health and Environmental Conservation Departments).
- H. Roads. There shall be adequate construction standards for structures, roadways and landscaping in areas with moderate to high susceptibility of flooding, ponding and/or erosion.
- I. Objectionable Impacts. There shall be adequate protection of adjacent properties against noise, glare, unsightliness, or other objectionable features from conflicting uses. The proposed site plan review use must not conflict, by virtue of its character, with neighboring uses. Electrical disturbances shall not be caused so as to disrupt radio or television communications in the immediate area.
- J. Scenic, Historical and Cultural Impacts. The scenic, historical and cultural attributes of the site shall be preserved to the extent practical. The integrity of existing historic sites or structures on the National Register of Historic Places shall not be endangered by the development.

Section 7.07 General Criteria for Special Permit Uses

- A. The proposed special use must not conflict, by virtue of its character, with neighboring uses.
- B. The proposed special use shall not cause undue noise, vibration, odor, lighting glare, and

unsightliness so as to detrimentally impact on adjacent properties.

- C. When a commercial special use abuts a residential property the Planning Board may find it necessary to require screening of sufficient height and density (i.e. fences, hedges, etc.) to reduce or eliminate the conflicting environmental conditions previously mentioned. The Board shall use similar uses found elsewhere in this Ordinance to specify the type of screening required.
- D. Electrical disturbances shall not be caused so as to disrupt radio or television communications in the immediate area.
- E. The proposed use shall meet the off-road parking and loading requirements (Article 6) of similar uses.
- F. Appropriate on-lot drainage is required to eliminate any potential on-site water related problems. The drainage system instituted shall not detrimentally impact on off-lot properties immediately adjacent.
- G. All uses shall meet State sanitary waste provisions (NYS Health and Environmental Conservation Departments).
- H. Proposed uses shall meet the sign requirements for the respective district.
- I. Traffic access to and from the site, as well as on-lot, shall be so constructed as to reduce traffic hazards. The Planning Board shall review and approve all such proposals. New York State Department of Transportation and Jefferson County Highway access location approvals shall be obtained first on the roads under their jurisdiction.
- J. All such uses shall be attractively landscaped. This shall involve grading, seeding, and regular mowing of the front yard area at a minimum.

ARTICLE 8 REGULATIONS FOR SPECIFIC USES

Section 8.01 Industrial Operation

- A. Such uses shall meet the off-road parking and loading requirements of Section 6.09 General Regulations.
- B. Such uses shall not produce high volumes of polluting wastes as identified under State Environmental Conservation Law and specified by the NYS Department of Environmental Conservation.
- C. Any manufacturing, fabricating or servicing related to the operation must take place within a building designed to accommodate the use.
- D. Materials used in the manufacturing, fabricating or servicing operations may be stored outside the building accommodating the use; provided, they shall be arranged in a neat and

orderly fashion and shall be enclosed by a fence at least five feet in height so as to prohibit unauthorized entrance by children and individuals. The outside storage area shall not be larger than the square footage of the first floor of the building used to house the operation. The Planning Board may require enclosure of such materials in a building to screen the use if it deems the materials to be offensive, from a health or visual standpoint.

- E. Traffic access to the use shall be designed in such a way that it accommodates both accessing and egressing vehicles at the same time. It shall not cause traffic hazards (as determined by the Board of Appeals), and all driveways onto public roads shall be at least 20 feet from any intersection or other driveway.
- F. The use shall be at least 1,000 feet from the nearest residential lot line. If the Planning Board finds the use visually incompatible to off-lot residential areas they may disallow the use or require plants of such a density to reduce this impact.
- G. The use shall not produce exterior noise levels that are detrimental to off-lot residential areas. Such levels shall not exceed 90 decibels at off-lot locations.
- H. There shall be no on-lot burning or land spreading of solid or liquid wastes unless under New York State Department of Environmental Conservation Permit.

Section 8.02 Public Riding Stables, Agricultural Processing Plants & Slaughter Houses

- A. Such facilities shall be located at least 300 feet from any residential lot line.
- B. Animal wastes and remnants shall be disposed of in an environmentally safe manner that does not pollute the air, land or water. State Environmental Conservation and Health Laws and Regulations shall be adhered to.

Section 8.03 Animal Hospital

- A. Adjacent properties shall not be impacted by noise, odors, and unsightly appearance of the use.
- B. All buildings, structures, and accessory uses (except off-road parking) shall be at least 150 feet from any lot line.

Section 8.04 Automobile Service Station

- A. All motor vehicle service stations shall be so arranged and all gasoline and/or fuel pumps shall be so placed, as to require all servicing on the premises no closer to any road right-of-way line than 40 feet. No gasoline pump shall be placed closer to any side lot line than 30 feet.
- B. All junk waste and servicing materials shall be stored within a structure or enclosed within fencing so as not to be visible from off the property.
- C. Entrance and exit driveways shall be located at least five feet from any side or rear lot line.

- D. Such uses shall only be permitted on a lot at least 150 feet in width, and 20,000 square feet in area.

Section 8.05 Above Ground Fuel Storage Tanks (over 1,000 gal.)

- A. Any such installation of flammable liquids or gas shall be in conformance with the applicable recommendations of the National Board of Fire Underwriters.
- B. The recommendation of the local fire chief having jurisdiction shall also be considered prior to approval of such a use.
- C. All such uses shall be located on sites large enough to contain the impact of any potential accident that might result from their explosion (without damaging adjacent properties).

Section 8.06 Machine and Welding Shops

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

Section 8.07 Small Commercial Enterprises

- A. Any assembling or servicing related to the operation must take place within a building designed to accommodate the use.
- B. Materials used in the assembling or servicing operation may be stored outside the building accommodating the use; however, they must be enclosed within a fence or structure so as not to be visible from off the property. The outside storage area shall not be larger than the square footage of the first floor of the building used to house the operation.
- C. One identification sign shall be permitted and shall not exceed eight square feet in area. It shall meet all other pertinent sign regulations found elsewhere in this Ordinance.
- D. The Small Commercial use must be at least 100 feet from the nearest neighboring residential lot line (off-premises from the Small Commercial Lot).
- E. The Small Commercial use shall be in keeping with other similar uses permitted in the ARR District and shall not conflict with neighboring residential and other uses.
- F. Parking spaces shall be adequate to meet the requirements for Off-road Parking and Article 6, General Regulations.
- G. No unsafe traffic conditions shall be caused by establishment of the use, or any accessory

uses, signs or other appurtenances. Such facilities shall be so placed as not to hinder public thoroughfare and traffic site views. Drainage along roadways or affecting such areas shall not be impeded by placement of such facilities.

Section 8.08 Community Facility

- A. Such facilities shall be in keeping with the character of the neighborhood.
- B. Sufficient parking spaces must be provided to meet the Off-road Parking requirements of Article 6.
- C. The use shall not produce dust, noise, lighting glare or other objectionable environmental conditions to neighboring residential properties. If it does the applicant shall install adequate screening (fences, hedges, etc.) to eliminate such conditions. The screening shall be installed in conformance with reasonable standards established by the Planning Board, on a case by case basis.
- D. Interior thoroughfares shall be arranged so as to insure public safety.

Section 8.09 Large Commercial Enterprises

- A. Such operations, storage of inventory and parking areas shall be at least 50 feet from the nearest residential lot line.
- B. When within 200 feet of a residential structure, such operations shall be screened from adjacent residential property by a fence, hedge or other planting or structure so as not to be visible from the adjacent property. Acceptable screening conditions shall be determined through reasonable standards, as established by the Planning Board.
- C. The lot where products are stored and parking is situated shall be constructed of all-weather (e.g. gravel, paved, etc.) materials.
- D. The use shall adhere to the parking space requirements for commercial business uses under the off-road parking schedule in Article 6.

Section 8.10 Wireless Communications Facilities

A. Purpose

The purpose of this section is to regulate the location, design and use of wireless communications facilities within the Town in order to:

1. Protect the health, safety and welfare of the residents of the Town of Orleans.
2. Establish predictable and balanced regulations for the siting and screening of wireless communications facilities in order to accommodate the growth of communications services within the Town.

3. Maximize the use of existing towers, tall buildings and other high structures to reduce the number of new towers needed to serve the community.
4. Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements.
5. Ensure harmony and compatibility with surrounding land use patterns.
6. Protect the historic rural character, natural features and irreplaceable scenic qualities of the Town with special attention to open space, mountain ridges, recreation areas, scenic roads, view sheds and historic sites, through careful design, siting, landscaping, screening and innovative camouflaging techniques.

These regulations are not intended to prohibit or have the effect of prohibiting the provision of personal wireless services, nor shall they be used to discriminate among providers of functionally equivalent services, consistent with federal regulations. These regulations shall not affect lot dimensions of Article 4 of the Town of Orleans Zoning Ordinance unless a specific provision herein so provides.

B. New Towers

1. A wireless communications facility involving construction of a new tower shall require a special permit from the Town of Orleans Planning Board. The Town of Orleans defines the placement, construction and/or modification of a wireless communications facility requiring a special permit as a Type I action under the New York State Environmental Quality Review Act. (SEQR).
2. The Planning Board shall consider a new tower only when the applicant demonstrates that shared use of an existing or approved wireless communications tower is impractical. An applicant is required to document all existing man-made structures exceeding 35 feet in height and existing or approved wireless communications towers within a reasonable distance of the proposed site. Reasonable distance will be defined by the Planning Board with input by the applicant. The applicant shall demonstrate in the report that best efforts were used to co-locate on an existing structure or facility and/or why shared use is not practical in each case for physical, technical and/or financial reasons.
3. The applicant shall design a proposed new tower to accommodate future demand for reception and transmitting facilities. The applicant shall submit to the Planning Board a letter of intent committing owner of the proposed new tower, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the site plan review approval. The letter shall commit the new tower owner and his/her successors in interest to:
 - a. Respond within 90 days to a request for information from a potential shared use applicant.
 - b. Negotiate in good faith concerning future requests for shared use of the new tower

by other telecommunication providers.

- c. Allow shared use of the new tower if another wireless communications provider agrees in writing to pay reasonable charges. The charge may include but is not limited to a pro rata share of the cost of site selection planning, project administration, land cost, site design, construction, maintenance, financing, return on equity and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. No portion of the tower itself shall be used for signage or advertising.
- d. Assessment of the visual impact of the tower or facility base, guy wires, accessory buildings and overhead utility lines from abutting properties and roads.
- e. Possible techniques for camouflaging the tower.
- f. A copy of the applicant's Federal Communications Commission (FCC) license.
- g. An engineer's report as to structural capacity of the tower.
- h. Documentation for the justification of the height of any tower or facility together with any required area variance(s).
- i. Justification for any vegetative clearing required.
- j. An engineer's certification that transmission from their Telecommunication Facility is in compliance with Federal radio frequency emissions standards and will not interfere with existing signals such as household television and radio, etc.
- k. Legal description (metes and bounds) of the property upon which the proposed tower will be located.

4. Special Permit Criteria for Wireless Communication Facilities

No special permit for a Wireless Communication Facility shall be authorized by the Planning Board unless it finds that such Wireless Communication Facility conforms to the following criteria:

- a. The proposed location is necessary to meet the frequency reuse and spacing needs of the applicant's system and to provide adequate service and coverage to the intended area;
- b. Conforms with all applicable regulations promulgated by the Federal Communication Commission, Federal Aviation Administration, and other federal agencies;
- c. The facility is designed and constructed in a manner which minimizes visual impact to the extent practical;
- d. Complies with all other requirements of this Ordinance, unless expressly superseded

herein;

- e. When including the construction of a tower, such tower is designed to accommodate future shared use by at least two other telecommunication service providers.

5. Required Review Materials and Supporting Documentation for Review of Wireless Communications.

An application for a Wireless Communication Facility shall include an approved site plan setting forth specific site data on a map, acceptable in form and content to the Planning Board, which shall be prepared to scale and in sufficient detail and accuracy and which shall indicate the following:

- a. The exact location of the proposed Wireless Communication Facility with any tower guy wires and anchors;
- b. The height of the proposed Wireless Communication Facility Tower;
- c. The location, type and intensity of any lighting on the Tower;
- d. The location of lot lines and names of adjacent land owners within 500 feet of the parcel on which the facility is located;
- e. Proof of the landowner's consent if the applicant does not own the property;
- f. The location of all structures on the property and all structures on any adjacent property within ten (10) feet of the lot lines, together with the distance of these structures to the wireless communication facility;
- g. The location, nature and extent of any proposed fencing, landscaping and/or screening;
- h. The location and nature of existing and proposed easements and access road, if applicable;
- i. A side elevation or other sketch of the tower showing the proposed antennas and elevation of any accessory buildings.

6. Shared Use and Pre-existing Structures

- a. At all times, shared use of existing towers shall be preferred to the construction of new towers. Additionally, where such shared use is unavailable, the location of pre-existing structures shall be considered. An applicant shall be required to present an adequate report inventorying existing towers within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities and use of other pre-existing structures as an alternative to new construction.
- b. An applicant seeking to share use of an existing tower shall be required to document intent from an existing tower owner to share use. The applicant shall be responsible

for all fees and costs of adapting an existing tower or shared structure to a new shared use.

- c. Location on existing towers or structure shall be a permitted use allowed by issuance of a building permit provided that the location of the new antennae does not cause any nonconformities.

7. Site Design Standards for Wireless Communication Facilities

- a. Design. The design of a proposed new tower shall comply with the following:

- (1) Any new tower shall be designed to accommodate future shared use by other wireless communication providers.
- (2) The Planning Board may request a review of the application, at the expense of the developer, by a qualified engineer in order to evaluate the need for, and the design of, any new tower.
- (3) The tower should be disguised or camouflaged to blend in with the surroundings to the extent that such alteration does not impair the ability of the facility to perform its designed function.

- b. Dimensional Standards

- (1) All proposed wireless communication facilities shall be located on a single parcel.
- (2) The setback for towers shall be equal to the height of the tower, including any antennae, plus 50 feet, or 200 feet from the nearest residential lot line, whichever is greater, unless the applicant can provide an engineers report indicating a smaller debris fall zone, which the Planning Board will consider and may allow lesser setbacks. The fall zone may not include public roads and must be located on property either owned or leased by the applicant, or for which the applicant has obtained an easement, and may not contain any structure other than those associated with the wireless communications facility. If the facility is attached to an existing structure, relief may be granted by area variance by the ZBA on a case by case basis.
- (3) Minimum lot size will be determined by setback requirements.
- (4) Accessory buildings shall meet the minimum setback for accessory uses in the underlying district.
- (5) If the project property is leased then any required setbacks shall be measured by the lease lines as identified on site plan.

- c. Aesthetics

In order to minimize any adverse aesthetic effect on neighboring residence to the

extent possible, the Planning Board may impose reasonable conditions on the applicant, including the following:

- (1) The Planning Board shall approve the type of tower to be constructed. The board may require a monopole, guyed, or freestanding tower (if sufficient land is available to applicant).
 - (2) The Planning Board may require reasonable landscaping consisting of trees, vines or shrubs to screen the base of the communications tower and accessory buildings and/or to screen the tower and accessory buildings to the extent possible from adjacent residential property. Existing on-site trees and vegetation shall be preserved to the maximum extent possible.
 - (3) The Planning Board may require the applicant to show that it has made good faith efforts to co-locate on existing towers or other available and appropriate structures and/or to construct new towers near existing towers.
 - (4) Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Towers, wiring, and antennae shall be painted a galvanized or matte gray finish unless otherwise required by the FAA or the Planning Board. The Planning Board reserves the right to require lighting for safety purposes, even if not required by FAA regulations.
 - (5) No tower shall contain any signs or advertising devices.
- d. Accessory Facility. Accessory facilities shall maximize use of building material, colors and textures designed to blend with the natural surroundings.
 - e. Vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible.
 - f. Access and Parking. A road and parking will be provided to assure adequate emergency and service access.
 - g. Fencing. The tower or facility and any accessory buildings, including guy anchors, shall be adequately enclosed by a fence, a minimum of 8' in height, design of which shall be approved by the Planning Board. This requirement may be waived by the Planning Board if the applicant demonstrates that such measures are unnecessary to insure the security of the tower or facility.
 - h. Radio-Frequency Effects. The Planning Board recognizes that Federal Law (Telecommunications Act of 1996) prohibits the regulation of cellular and PCS communications towers based on the environmental effects of radio frequency emissions where those emissions comply with the FCC standards for those emissions. The Planning Board may, however, impose a condition on the applicant that the communications antennas be operated only at Federal Communications

Commission (FCC) designated frequencies and power levels.

I. Maintenance and Repair

- (1) Every facility shall be inspected annually for structural integrity by a New York State licensed professional engineer retained by the facility owner and or operator and a copy of the inspection report shall be submitted to the Enforcement Officer.
- (2) All wireless communication facilities shall be maintained in good order and repair. Routine maintenance and repair shall be conducted between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, except for emergency repairs which may be undertaken at any time with prior notice to the Enforcement Officer.

j. Utilities. All utility connections shall be installed underground.

k. Antennae Affixed to existing structures. Antennae affixed to the face of existing structures may not protrude in excess of five (5) feet horizontally between the antenna and the existing structure face.

l. System Connections. Where technologically feasible, connections between wireless communication facilities and the system of which they are a part shall be made by use of land line cable rather than by parabolic dish antennas. When such antenna links are technologically necessary, they shall be located, painted and otherwise situated so as to minimize visual impacts. In no case shall the diameter of such an antenna exceed three (3) feet.

8. Inter-municipal Notification

In order to keep neighboring municipalities informed, and to facilitate the possibility of directing that any existing towers or structures in a neighboring municipality be considered for shared use, the Planning Board shall require that:

- a. An applicant who proposes a telecommunication facility shall notify in writing the legislative body of each municipality with the Town and each municipality that borders the Town, the Jefferson County Planning Department and the Director of Jefferson County Emergency Services. Notification shall include the exact location of the proposed tower or facility, and a general description of the project including, but not limited to, the height of the tower or facility and its capacity for future shared use.
- b. Documentation of this notification shall be submitted to the Planning Board at the time of application.

9. Notification of Landowners

The applicant shall be required to mail notice of the public hearing directly to all landowners whose property is located within 500 feet of the lot line on which a wireless communication

facility is proposed. Notification, in all cases, shall be made by certified mail at least ten days prior to the public hearing. Documentation of this notification shall be submitted to the Planning Board prior to the public hearing.

10. Additional Submission Requests

- a. In addition to the site plan review requirements, the applicant shall be required to submit:
 - (1) A completed Visual Environmental Assessment Form;
 - (2) A Federal Communications Commission (FCC) license;
 - (3) Documentation on the proposed intent and capacity of use, as well as a justification for the height of any tower or facility and justification for any vegetation clearing required.
- b. The Planning Board may require the applicant to submit:
 - (1) A Zone of Visibility Map showing locations from which the tower or facility may be seen.
 - (2) Assessment of the visual impact of the tower or facility base, guy wires, accessory buildings and overhead utility lines from abutting properties and roads.

11. Removal of Facilities

- a. Towers and antennas shall be removed if the owner's or user's special permit approval for these facilities has expired, terminated or if the facilities are no longer being used by FCC licensee. Towers and antennas shall be removed if there is not at least one operator with a valid special permit using the tower. Potential or planned future use of any facility for commercial communication service is not sufficient to avoid the requirement for removal.
- b. If the removal of towers and antennas is required, accessory buildings and other structures shall also be removed unless:
 - (1) The landowner wishes to retain these structures and communicates this in writing to the Planning Board; and
 - (2) The retention of these structures will comply with the Zoning Ordinance.
- c. The Planning Board agrees that removal of these structures is not required.
 - (1) Each applicant seeking a special permit for a wireless communications facility shall provide a written contract with the Town of Orleans agreeing to be fully responsible for removal, and indemnifying the Town for the costs of removal, of antennas, accessory buildings and supporting structures such as towers when

removal is required by the Town of Orleans Zoning Ordinance.

- (2) If a proposed wireless communications facility will be owned by an entity other than an FCC licensed carrier which will use that facility, the carrier shall provide to the Planning Board a copy of a contract between the facility owner and the FCC licensed carrier in which the owner agrees to remove the facility including any tower, antennas and accessory buildings, and indemnify the Town for the costs of such removal, when these facilities are no longer being used by an FCC licensed operator with a valid Town of Orleans site plan review approval.
- (3) A decision to require removal shall be the responsibility of the Planning Board after consulting with the Enforcement Officer and the Town Attorney. Removal shall occur within 90 days of the Planning Board's decision to require removal unless the Planning Board has agreed to an extension of that time. If not removed within the designated period, the Town shall have the right to compel removal, with all costs to be borne by the site plan approval holder who owns and/or previously used the facilities. Removal costs may also be recovered from the owner of the tax parcel on which the facilities are located.
- (4) When towers are removed, site reclamation shall be completed to the satisfaction of the Board within 180 days of structure removal. Reclamation shall include landscaping, removal of structures, utility lines and accessory buildings, and shall encompass the building site and buffer area controlled by the facility owner.

12. Abandonment or Discontinuation of Use

- a. Any wireless communications facility that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of the facility shall physically remove it within 90 days of a receipt of notice. "Physically remove" shall include, but not be limited to:
 - b. Removal of antennas, mount, equipment shelters and security barriers from the subject property.
 - c. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
 - d. Restoring the location of the facility to its natural condition, with the exception of landscaping and grading.
 - e. If the carrier fails to remove the facility in accordance with this section of the Zoning Ordinance, the Town will have the authority to enter the property and remove the facility with the costs of removal assessed against the property.

Section 8.11 Mining Operation

- A. Access roads to the mining operation shall be located no closer than 50 feet from side lot lines.

- B. Routing of mineral transport vehicles on roads controlled by the local government may be regulated.
- C. Requirements and conditions, concerning setbacks from lot lines and public thoroughfare rights-of-way, natural or manmade barriers to restrict access, dust control, and hours of operation, placed on the mining operation by NYSDEC as part of their permit shall also become requirements and conditions of the local approval.
- D. No below ground level excavation (creating a pit) of materials shall be located within 150 feet of any public road or any off-lot residential lot line. If within 300 feet of a residence there shall be screening to reduce visibility of the pit and eliminate noise and dust from off-lot residential properties.
- E. All blasting shall be done by a licensed and insured blaster. The Planning Board shall set appropriate conditions for blasting relative to noise, dust, shock impact, etc., that the blaster must meet.
- F. Access drives shall be treated within 200 feet of a public road to prevent dust.
- G. Drainage facilities shall minimize erosion and stagnant ponds.
- H. Whenever topsoil has been removed or covered under by fill on any area of land of more than one acre, such area shall be seeded to provide an effective covering crop within the first growing season following the end of such operation.

Section 8.12 Multiple Family Dwelling Units

- A. **Traffic Access:** - All on-site traffic access roads shall be composed of all-weather materials and shall be built to Town Highway standards. The interior roadways shall enter or exit onto State, County or Local roads only with the permission of those respective Highway Departments. Such entrances or exits shall not be closer than 50 feet to road corners. Visibility on interior roadways or at exits and entrances shall not be impeded so as to cause unsafe traffic conditions as determined by the Planning Board. Any of these conditions may be waived or altered by the Planning Board.
- B. **Circulation and Parking:** - The site plan shall insure that the interior circulation system is not congested and allows the concurrent flow of entering and exiting traffic. As stated above, the surface shall be of all-weather material, as specified by the Town Highway standards. There shall be two parking spaces for each dwelling unit. All units shall have ready access to the interior roadways and parking spaces. No interior public roadway shall be closer than 10 feet to any building. Any of these conditions may be waived or altered by the Planning Board.
- C. **Arrangement of Buildings:** The site plan shall insure that adequate provision has been made for light, air, access and privacy in the arrangement of the buildings to each other. Each dwelling unit shall have a minimum of two (2) exterior exposures.

- D. Proper Landscaping: Within one month of completion of construction or at least by September 1, the bare grounds must be seeded. Where completion of such construction takes place later than this date or it is impractical to seed, the site shall be mulched to reduce erosion until seeding can take place. Where adjacent land use districts or uses are of a commercial or industrial nature the Board may require that proper screening and buffer zones be required to reduce noise, dust and disturbances.
- E. Certificate of Compliance: No certificate of occupancy shall be issued for any such building or buildings unless the proposed use conforms in all respects to the site plan and the conditions stated herein.
- F. Distance between buildings
1. The front and rear of any principle building shall be no closer to the front or rear of any other principle building than 40 feet.
 2. The side of any principle building shall be no closer to the side, front, or rear of any other principle building than 30 feet.
- G. Outdoor Recreation Space: There shall be provided on the site of such a use an area or areas devoted to the joint recreational use of the residents thereof. Such recreation space shall consist of an outdoor area not less than twenty-five (25) percent of the total lot areas of all dwelling units served. Parking areas and vehicle access facilities shall not be considered to meet this requirement.
- H. Drainage: Drainageways on the lots and at the interior or public roadsides shall be constructed so as to handle maximum capacity flows at any given time. The Soil Conservation Service or the respective Highway Department may be contracted to provide technical assistance on the size of the drainageways or culverts therein.
- I. Lighting: Exterior lighting shall be adequate to promote safety in the parking areas and on-lot adjacent to the multiple dwelling unit.

Section 8.13 Hotels/Motels

- A. Traffic Access - Roads shall be adequate in grade, width, alignment, visibility and properly related to other nearby traffic circulation considerations to meet Town standards.
- B. Off-road Parking - There shall be provided on the site of such development an area or areas devoted to the parking of automobiles. The required number of off-road parking spaces shall be determined from the Off-road Parking Schedule.
- C. Exterior Lighting and Signs - Illuminated signs and other exterior lighting shall be directed away, or shielded from, adjacent residential properties in such a manner as not to disturb the occupants thereof.
- D. Proper Landscaping - Where adjacent Land use is residential in nature and within 50 feet of the lot line, buffer zones shall be required to eliminate visibility, noise, and dust from the use. The area shall be seeded before September 1, or if this is impossible, mulched until seeding

can take place.

- E. Open Space - A minimum of twenty-five percent of the site shall be developed as open space. Parking areas and vehicle access facilities shall not be considered in calculating open space.
- F. Such uses shall have a minimum area of 150 square feet of rentable space for each unit, exclusive of bathroom facilities.
- G. Each rentable unit shall include a minimum of one (1) bedroom and a shower or bathroom with toilet.

Section 8.14 Rental Cottages

- A. The land area per cottage shall be at least 3,000 square feet.
- B. The space between cottages shall be at least 15 feet.
- C. The provisions of Section 8.13, paragraph C shall be complied with.

Section 8.15 Manufactured Home Park

- A. No manufactured home or service building shall be closer to a road line than 55 feet or other lot line than 30 feet.
- B. The park shall be located on a well-drained site, properly graded to insure rapid drainage and free from stagnant pools of water.
- C. The park shall have an adequate entrance road at least 24 feet wide. The roadway shall be constructed of all-weather materials as specified by the Town.
- D. Individual manufactured home lots shall have an area of not less than 5,000 square feet with a minimum width of 50 feet and a minimum depth of 100 feet.
- E. The total number of manufactured home lots shall not exceed seven per gross acre.
- F. Side and rear lot lines shall be densely planted to trees and shrubs.
- G. Manufactured home parks which accommodate 25 or more manufactured homes shall provide open space area consisting of at least 10 percent of the gross site area of the manufactured home park.
- H. Refuse shall be disposed of in a manner acceptable to the Town and to the New York State Health Department or other appropriate State agency. There shall be no on-lot exposed garbage, junk or other wastes. Each lot shall have a garbage can and weekly refuse pickup shall be assured.
- I. A manufactured home shall be so placed on each lot that it shall be a distance of at least

twenty (20) feet from any mobile home in such park.

- J. Each manufactured home park shall provide weatherproof electric service connections and outlets for each lot, all such connections and outlets to be of a type approved by the New York State Fire Underwriters.
- K. Lighting should be provided along park roadways and walkways to insure safety for residents.
- L. The entire park shall be landscaped to insure a sightly appearance. Individual lots shall be graded, seeded and mowed on a regular basis.
- M. Requirements for individual manufactured homes found elsewhere in this Ordinance shall be adhered to for manufactured homes in parks.

Section 8.16 Campground

- A. No camping area or site shall be closer to a road line than 55 feet or other lot line than 200 feet.
- B. The campground shall be located on a well-drained site, properly graded to insure rapid drainage and free from stagnant pools of water.
- C. The campground shall have an adequate entrance road at least 24 feet wide. The roadway shall be constructed of all-weather materials as specified by the Town. It shall be posted for slow speeds.
- D. Individual campground sites shall have an area of not less than 400 square feet.
- E. Side and rear lot lines shall be densely planted with trees and shrubs.
- F. Campgrounds shall provide an open space area consisting of at least 10 percent of the gross site area, for recreation.
- G. Refuse shall be disposed of in a manner acceptable to the Town and to the New York State Health Department or other appropriate State agency. There shall be no on-lot exposed garbage, junk or other wastes. One garbage can shall be provided for no more than four (4) sites.
- H. Where electrical service is provided to sites, it shall be weatherproofed and of a type approved by the New York State Fire Underwriters.
- I. Where applicable, each campground shall contain approved New York State Health Department) sanitary facilities for toilets, trailer dumping station and wash and shower areas. Swimming areas shall also meet State standards.

Section 8.17 Public Utility Facility

- A. The location, design, noise and operation of such facility shall not adversely affect the

character of the surrounding area.

- B. Adequate fences, barriers and other safety devices shall be provided around the structure (of any new use) at a height of at least six feet.
- C. Such uses shall be setback at least 200 feet from the nearest residential lot line.

Section 8.18 Large Product Retail

- A. Such Sales, rental operations, storage of inventory and parking facilities shall be located at least 50 feet from the nearest residential lot line.
- B. When within 200 feet of a residential structure, such operations shall be screened from adjacent residential property by a fence, hedge or other planting or structure so as not to be visible from the adjacent property. Acceptable screening conditions shall be determined through reasonable standards, as established by the Planning Board.
- C. Such operations that also have service facilities for the same equipment shall meet the requirements of "Automobile Service Stations" under this Article.
- D. The use shall not cause electrical disturbances that will disrupt communications reception of neighboring areas.
- E. The lot where the products are displayed and the parking spaces on-lot shall be constructed of all-weather (e.g. Gravel, paved, etc.) materials.
- F. The use shall provide sufficient parking spaces to accommodate commercial uses as listed under the off-road parking requirements (Article 6). In addition the lot shall be of adequate size to accommodate the maximum number of products that are for sale or rent and parking on-lot.

Section 8.19 Airstrips

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

Section 8.20 Salvage or Junk Yard

- A. Such uses shall not be located within three hundred (300) feet from the nearest residential lot line and road line.
- B. The operation thereof shall be governed by the regulations contained in the Local Law of the Town providing for the regulation and control of junk yards.

Section 8.21 Shopping Centers

- A. A shopping center shall be developed in accordance with a unified site plan and architectural scheme.
- B. A site plan proposal showing: layout of center, parking, drainage, utilities, landscaping, walkways and other similar features shall be provided by applicant. Each shopping area shall consist of at least three (3) acres.
- C. Off-road parking shall meet the requirements outlined for store groups in the off-road parking requirements of Article 6, Section 6.09
- D. Off-road loading and unloading space shall be provided in addition to the space required by (1) above. It shall meet the off-road Loading requirements of Article 6, Section 6.09.
- E. No building shall be placed closer to any road right-of-way line than 50 feet. No parking space shall extend nearer to any road right-of-way than 20 feet, or closer to any other property or marked right-of-way line than 25 feet, and the boundaries along all side and rear lot lines shall be appropriately landscaped and seeded for a depth of not less than 10 feet adjacent to the structures or parking lots (whichever is most extreme). All front yards shall be fully landscaped.
- F. No center shall be constructed closer than 100 feet to the nearest residential lot line. No Shopping center building or parking lot shall be closer than 200 feet to the nearest residential building line.
- G. Access patterns (both on-lot and exiting\entering onto the public thoroughfares) shall not cause safety hazards. The Planning Board shall review and approve such plans.

Section 8.22 Drive-In Theaters

- A. Each drive-in theater shall consist of at least five (5) acres.
- B. Each area shall be attractively landscaped.
- C. Each area shall be so located that the noise, lights and traffic will not adversely impact neighboring residential areas.
- D. Each area shall be at least 500 feet from the nearest residential lot line.
- E. Traffic access and egress from the area shall be by separate driveways. Interior roadways shall be appropriately marked for traffic direction.

Section 8.23 Hog or Fur Farm

- A. Such facilities shall be located at least 300 feet from any residential lot line.
- B. Animal wastes and remnants shall be disposed of in an environmentally safe manner that

does not pollute the air, land or water. State Environmental Conservation and Health Law and Regulations shall be adhered to.

- C. On-lot drainage shall be acceptable to carry run-off. water to an off-site location.
- D. All such Livestock shall not wander at large, and create a public nuisance (i.e. traffic hazards, etc.). Rather, they shall be sufficiently restrained by a pen, fence, building or other similar facility.

Section 8.24 Adult Entertainment Uses

- A. All such uses shall be at least 1,000 feet from the nearest district line of any zone in which adult entertainment is not a permitted use.
- B. All such uses shall not be located within a 1,000 foot radius of any other such use.
- C. All building openings, entries, windows, doors, etc., shall be located, covered, or screened in such a manner as to prevent a view into the interior of the building from the exterior of the building.
- D. All such uses shall be permitted one sign that conforms to the sign standards contained in Section 6.2 of this Ordinance, except that such sign shall not utilize garish colors or contain graphic or artistic representations that in any way characterize the activities offered by, or stock-in-trade of such use.

Section 8.25 Outdoor Special Events

- A. Special Permits for Outdoor Special Events shall expire 1 year from the date of issuance.
- B. After considering the general character of the neighborhood, the intensity of the activity, the anticipated ambient noise, and the proximity of residences to the use, the Planning Board shall specify the permitted hours during which the Outdoor Special Event may be held.
- C. Any failure by a permitted to comply with the terms of a previously issued special use permit for Outdoor Special Events shall be relevant to the Planning Board when considering any application to renew the permit.
- D. The conduct of Outdoor Special Events without the issuance of a Special Use Permit is prohibited.
- E. Any failure by the applicant to comply with the terms shall be grounds for proceedings before the Planning Board to revoke said Permit. Upon written notice to the applicant and published notice of the type required by Article 7, Section 7.5 of this Ordinance, a public hearing shall be held to determine whether the Special Use Permit shall be revoked. The final determination on such issue, based upon the record shall be made by the Planning Board, with said determination to be filed with the Office of the Town Clerk within five (5) business days of the determination.

Section 8.26 Convenience Store

- A. All motor vehicle service stations shall be so arranged and all gasoline and/or fuel pumps shall be so placed, as to require all servicing on the premises no closer to any road right-of-way line than 40 feet. No gasoline pump shall be placed closer to any side lot line than 30 feet.
- B. Entrance and exit driveways shall be located at least five feet from any side or rear lot line.
- C. Such uses shall only be permitted on a lot at least 150 feet in width, and 20,000 square feet in area.
- D. The use must be at least 100 feet from the nearest residential lot line.
- E. The use shall be in keeping with other similar uses and shall not conflict with neighboring residential and other uses.
- F. No unsafe traffic conditions shall be caused by establishment of the use, or any accessory uses, signs or other appurtenances. Such facilities shall be so placed as not to hinder public thoroughfare and traffic site views.

Section 8.27 Multiple Principal Uses on the Same Parcel

In all districts, Multiple Principal Uses on the same parcel are allowed only by special permit approval by the Planning Board. Where more than one principal use exists on the same lot (with the exception of home occupation uses) all such uses shall have a required yard, which shall be determined by measuring the required distance from the use's building line. Each principal use shall have a setback between each principal use equal to side yard setbacks for the district it is located in. Only uses that are allowed by zoning permit, site plan, or special permit in the district are allowed under this Section.

Section 8.28 Abandoned and Unused Vehicles and Boats

- A. Purpose. The outdoor storage of junked, abandoned, unused or dangerous motor vehicles and boats or the parts therefrom within the Town of Orleans is a hazard to the preservation of the public health, welfare and safety in that it constitutes a health, fire and safety hazard and is an attractive nuisance to children, which is a peril to their safety. Such outdoor storage constitutes a blight on the Town's landscape, and it is generally unsightly, and its existence tends to depreciate the value of property in the neighborhood and the Town generally. The control of the outdoor storage of junked, abandoned, unused or dangerous motor vehicles and boats or parts therefrom within the Town of Orleans is therefore regulated for the preservation of the public health, safety and welfare of its residents.
- B. Definitions. As used in this Article, the following terms shall have the meanings indicated:

ABANDONED – Any motor vehicle or boat, the ownership of which cannot be reasonably determined or of which the owner does not intend to recover possession or of which the owner does not intend to use on a public highway or waterway, excepting competition

vehicles. The intent of the owner of a motor vehicle or boat may be determined by the physical condition of the motor vehicle or boat, the length of time since it has last been used on a public highway or waterway and whether it is licensed or unlicensed.

COMPETITION VEHICLES – Those vehicles which have been so modified for use on a track or drag strip that they cannot be legally operated on a public way.

DANGEROUS – Any motor vehicle or boat which has smashed and broken windows and/or areas of sharp and torn metal edges and points and which should not be operated upon a public way or waterway.

HISTORIC MOTOR VEHICLE – A motor vehicle manufactured more than twenty-five (25) years prior to the current calendar year, which is owned and operated as an exhibition piece or collector's item and is used for participation in club activities, exhibits, tours, parades and for occasional transportation and similar uses, but not generally used for daily transportation.

JUNKED – Any motor vehicle which is unregistered by the State of New York or any other state and is not operable.

LOT – A parcel of land as described on the Town of Orleans Tax Map.

MOTORCYCLE – A motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor.

MOTOR VEHICLE – Every vehicle which, if operated on the highways of this state, would be required by law to be licensed by the Department of Motor Vehicles of the State of New York.

OPERABLE – Any motor vehicle which can be registered in the State of New York and which can be legally operated upon a public way. A vehicle which is in a condition to pass the requirements for the New York State motor vehicle inspection sticker shall be deemed in a condition for legal use upon a public highway.

RECREATIONAL VEHICLES – Those vehicles which are either propelled by their own power or drawn on the public highways and which are used as temporary residences, such as tent trailers, travel trailers, campers or mini- and motor homes.

UNUSED – Any operable motor vehicle which is unregistered by the State of New York or any other state and/or upon which is not displayed a valid state inspection sticker.

UTILITY VEHICLES – Those vehicles having a seasonal or limited use, such as box trailers and construction trailers, and snow removal or snowplowing equipment.

VEHICLE OWNER – A person, other than a lienholder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person and also includes any lessee or bailee of a motor

vehicle having the exclusive use thereof, under a lease or otherwise, for a period greater than thirty (30) days.

- C. Scope. This Article does not apply to: competition vehicles; recreational vehicles; utility vehicles; motorcycles; historic vehicles; or boats, unless such vehicle or boat is junked, abandoned or dangerous.

D. Outdoor Storage Restrictions.

1. It shall be unlawful for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant, trespasser or otherwise, of or on any property within the Town of Orleans to store or deposit or cause or permit to be stored or deposited a junked, abandoned or dangerous motor vehicle or boat or parts therefrom in the Town of Orleans, except:
 - (a) That no more than ten (10) such motor vehicles may be stored at one (1) time in an open area at a gasoline filling station or outdoors at a New York State licensed repair shop for the purpose of repair or reconditioning, only provided that the outdoor storage of a specific vehicle shall not exceed thirty (30) days.
 - (b) That nothing herein shall restrict the storage of unused motor vehicles or boats for sale by a duly licensed new or used dealer.
 - (c) As otherwise provided by law.
2. It shall be unlawful for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant, trespasser or otherwise, or on any privately owned lot within the Town of Orleans to openly store or deposit or cause or permit to be openly stored or deposited more than two (2) of either an unused vehicle or boat or competition vehicle or boat in the Town of Orleans. This prohibition does not apply to additional allowable vehicle(s) or boat(s) so long as it/they are not stored or deposited in a manner which creates a hazard to the health, safety or morals of the occupant of a building or the public, and the additional vehicle(s) or boat(s) are placed out of public view. The storage of additional vehicle(s) or boat(s) shall be within a wholly enclosed building or in an area enclosed by a secured wall or fence to be screened by natural objects, plantings or other appropriate means so as to not be visible from any highway, street, sidewalk or other location.
3. Any junked, abandoned, unused or dangerous motor vehicle or boat or vehicles or parts therefrom stored or deposited in violation of this Article on any land in the Town of Orleans shall be removed by the owner, property owner, occupant, lessee, agent, tenant or other person, firm or corporation occupying, managing or controlling the same.

E. Right to enter to inspect

1. During regular business hours or in an emergency at any hour whatsoever, the Zoning Enforcement Officer or his representative or any duly authorized Town representative, upon the showing of proper credentials and in the discharge of his duties, may enter upon any premises where a motor vehicle or boat is stored. If access to such property is refused, the Zoning Enforcement Officer shall apply for a search warrant in an appropriate court, and a

warrant shall be issued upon a showing that there are reasonable grounds to believe that a junked, abandoned or dangerous vehicle or boat or parts therefrom are stored or deposited on the property or that the owner of the property or the owner is in violation of this Article.

- 2. The Zoning Enforcement Officer or his representative or any duly authorized Town representative may enter the premises without a search warrant in the case of an emergency which requires immediate action to abate a direct hazard or imminent danger to the health, safety, morals, or welfare of the occupants of a building or the public.

F. Violations

- 1. Notice of violation. Whenever the Zoning Enforcement Officer determines that there has been a violation of this Article, he shall serve written notice upon the property owner, occupant or person having charge of such land upon which any vehicle or boat is illegally stored or deposited and upon the owner, if such party can be determined. Such notice shall specify the alleged violation, shall provide a ten-day time limit for compliance and shall advise the party of his right to appeal.
- 2. Notice shall be served, either personally or by certified mail, return receipt requested, to the property owner at his last known address, as shown upon the latest assessment roll, and to the vehicle's/boat's owner at his last known address, as shown upon the latest records of the New York State Department of Motor Vehicles. If, after due diligence, an address for either party cannot be determined or if either party cannot be served in the above-stated manner, then the Zoning Enforcement Officer shall cause a copy of such notice to be posted on the property or on the motor vehicle/boat, or both. The notice shall be in substantially the following form:

TO THE OWNER OF THE MOTOR VEHICLE/BOAT OR THE OWNER, OCCUPANT, LESSEE OR TENANT OF THE PROPERTY WITHIN THE TOWN OF ORLEANS, KNOWN AS:

NOTICE IS HEREBY GIVEN that an abandoned, junked, unused or dangerous motor vehicle/boat has been stored or deposited on the above-described property in the Town of Orleans in violation of _____ of the Code of the Town of Orleans. Violation of _____ constitutes an offense. The automobile/boat must be removed within ten (10) days from the date of this notice. Failure to remove in accordance with this notice may subject you to a fine of not to exceed one hundred fifty dollars (\$150.00). In addition, the Zoning Enforcement Officer may cause the abandoned, junked, unused or dangerous vehicle/boat to be removed at the property owner's expense.

Please advise the Zoning Enforcement Officer, Telephone No. 658-2057 of your compliance with this notice.

Dated: _____

Town of Orleans

By: _____
Zoning Enforcement Officer

- 3. **Right of appeal.** Any person affected by a notice of violation issued in connection with the enforcement of any provision of this Article or any rule or regulation adopted pursuant thereto may request and shall be granted a hearing before the Town Board if such person shall file with said officer a written request for a hearing, setting forth the following: a brief statement of the grounds for the appeal, the name and address of a party upon whom orders may be served and the reasons why such notice of violation should be modified or withdrawn. This request must be filed within ten (10) days after the service of the notice of violation, and compliance with such notice shall not be required while the hearing is pending.
- 4. **Failure to abate violations.** In case the property owner, agent, operator, vehicle/boat owner or occupant cannot be found within the time limit set for the abatement of said violations or if such owner, agent, operator, vehicle/boat owner or occupant shall fail, neglect or refuse to abate such violations, the Town Attorney shall be advised of all facts in the case and shall institute appropriate action in the court to compel compliance.
- G. **Emergency removal; expense constitutes a lien.**

In cases in which the Zoning Enforcement Officer determines that immediate action to abate a direct hazard or imminent danger to the health, safety, morals or welfare of the occupants of a building or the public is required, he shall promptly cause the removal of the motor vehicle, boat, vehicles or parts presenting such hazard or danger as a public nuisance and the expense incurred by the Town shall be assessed against the property upon which such vehicle/boat was found, which assessment shall constitute a lien and charge on such property and be collected as provided by law for the collection of delinquent taxes.

- H. **Requested removals; liens.**

The Zoning Enforcement Officer or his representative or any duly authorized Town representative is hereby authorized to remove any junked, abandoned, unused or dangerous motor vehicle or boat or the parts thereof at the request of the property owner on whose property said vehicle or parts are stored. The cost of such removal shall be borne by the property owner making such request and shall be payable to the Town Clerk. In the event of nonpayment, the cost may be assessed against the property upon which such vehicle was found, which assessment shall constitute a lien and charge on such property and be collected as provided by law for the collection of delinquent taxes.

ARTICLE 9 NONCONFORMING USES AND STRUCTURES

Section 9.01 A Nonconforming structure or use may not be altered, or resumed except in conformity with the regulations for the district in which it is located.

- Section 9.02 A Nonconforming use of a structure or land that has ceased for a consecutive period of twelve months or for twenty-four months during any three year period, may not be altered, rebuilt, or resumed unless in conformity with Ordinance regulations.
- Section 9.03 A Nonconforming use may be continued subsequent to adoption of this Ordinance but the structure shall not be enlarged in a way which increased its nonconformity, and the use shall not be enlarged or increased to occupy a greater land area.
- Section 9.04 A Nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use the time of adoption of this Ordinance.
- Section 9.05 Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any Nonconforming structure declared unsafe by a duly designated official
- Section 9.06 Nothing in this Ordinance shall be deemed to prevent the reconstruction of a Nonconforming structure to its original configuration when destroyed by fire or Act of God.
- Section 9.07 District Changes/Amendments: Whenever an area is transferred from a district of one classification to a district of a different classification, or amendments are adopted which change permitted uses or other regulatory measures governing such, the above regulations shall apply to Nonconforming uses created by such transfer.

ARTICLE 10 ADMINISTRATION AND ENFORCEMENT

Section 10.01 Zoning Permits

- A. No building or structure shall be erected, or use instituted, until a permit therefore has been issued. The exterior structural area of a building shall not be enlarged until a permit therefore has been issued.
- B. A zoning permit shall not be required for:
1. Interior structural alterations or routine maintenance and improvements (e.g. roofing, window replacement, siding replacement), that do not expand the exterior dimensions of the structure.
 2. Chimneys, placement of posts, and other similar accessory uses.
- C. Measuring setbacks

When establishing measurements to meet the required front yards and structure setbacks, the measurements shall be taken from the road right of way line, lot line or nearest mean high water elevation to the point attached to the structure which projects out the furthest. This shall include such projecting facilities as chimneys, porches, carports, attached

garages, fire escapes, and other similar facilities. It does not apply to roof lines that project two feet (2') or less.

- D. No such zoning permit or certificate of occupancy shall be issued for any building where said construction, addition, and exterior expansion or use thereof would be in violation of any of the provisions of this Ordinance.
- E. A zoning permit issued under this Ordinance, shall expire one year from the date of issue if construction is not started.
- F. Any use that has been discontinued for a period of 12 months or 24 months during any three year period shall be termed abandoned and may not be reinstated without applying for a new zoning permit.
- G. Applications for zoning permit shall be submitted to the Enforcement Officer and shall include two (2) copies of a plat plan showing the actual dimensions of the lot to be built upon; the size, location and height (on the lot) of the building and accessory buildings to be erected; the distances from the building line to all lot lines, road right-of-way line, waterfront lot line, streams and any other features of lot; and such other information as may be necessary to determine and provide for the enforcement of this Ordinance. This information and other relevant application data shall be provided on a form issued by the Town.
- H. A fee as determined by the Town Board shall be paid for each zoning permit used.
- I. Parking lots for places of public assembly, commercial uses, or industrial uses shall require a zoning permit for placement. They shall meet the requirements of Article 6, Section 6.09.
- J. In any District, temporary zoning permit may be issued for a period not exceeding one year, for non-conforming uses incidental to construction projects. These include such structures and uses as storage of building materials and machinery, processing of building materials, a real estate office located on a housing tract being offered for sale and a construction site office. Such temporary zoning permits are conditioned upon agreement by the owner or operator to remove the structure or use upon expiration of the permit. Such zoning permit may be renewed yearly upon application to the Enforcement Officer, for an additional period of one year.

Section 10.02 Enforcement Officer

This Ordinance shall be enforced by the Enforcement Officer, who shall be appointed by the Town Board.

- A. The Enforcement Officer's authorities shall be to:
 - 1. Issue and deny Zoning Permits.
 - 2. Scale and interpret district boundaries on the Zoning Map.

3. Certify that the sanitary waste regulations of New York State have been adhered to.
4. Issue or deny Certificate of Compliance.
5. Refer appropriate appeal matters to the Town Board and ZBA.
6. Revoke a permit where there is false, misleading or insufficient information. Revoke a permit where the applicant has not done what was proposed on the application.
7. Issue stop work orders.
8. Report to the Town Board the number of permits issued and fees collected at regular Town Board meetings.

Section 10.03 Certificate of Compliance

- A. No land shall be occupied or used and no building hereafter constructed, erected, extended, used, or changes made in the use until a Certificate of Compliance shall have been issued by the Enforcement Officer stating that the buildings or proposed use thereof complies with the provisions of this Ordinance.
- B. All Certificates of Compliance shall be applied for coincident with the application for a building permit. Said certificate shall be issued within ten (10) days after the erection or alteration shall have been approved as complying with the provisions of this Ordinance.
- C. Under such rules and regulations as may be established by the Zoning Board of Appeals, a temporary Certificate of Compliance for not more than three (3) months for any building or part thereof, may be issued by the Enforcement Officer. Such temporary Certificate may be renewed upon request for an additional three (3) months.
- D. The Enforcement Officer shall maintain a record of all Certificates and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building affected.

Section 10.04 Planning Board

- A. Powers and Duties: The Planning Board shall have the following powers and duties with respect to this Ordinance.
 1. Approval or disapproval of site plans in accordance with Article 7.
 2. Approval or disapproval of special use permits in accordance with Article 7.
 3. Submittal of an advisory opinion, when requested to do so to the Zoning Board of Appeals.
 4. Submittal of an advisory opinion to the Town Board for proposed amendments to this

law.

5. All other powers granted by New York State Law.
- B. Procedure: The Planning Board shall act in strict accordance with the procedure specified by this Ordinance. All applications made shall be made in writing on forms prescribed by the Town. Every decision of the Planning Board shall be made by resolution which shall contain a full record of findings in the case.

Section 10.05 Zoning Board of Appeals (ZBA)

- A. Creation, appointment, and organization: a Zoning Board of Appeals is hereby created. Said Board shall consist of five (5) members, one from each election district. The Town Board shall appoint the members of the ZBA on a staggered term basis in conformance with Town Law. The ZBA shall select a Chairman, Assistant Chairman, and Secretary and shall prescribe rules for the conduct of its affairs.
- B. Powers and Duties: The Zoning Board of Appeals shall have all the power and duties prescribed by Town Law and by this Ordinance, which are more particularly specified as follows:
1. Interpretation: Upon appeal from a decision by an administrative official or citizen to decide any question involving the interpretation of any provision of this Ordinance, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
 2. Variances: To vary or adapt the strict application of any of the requirements of this Ordinance in the case of exceptionally irregular, narrow, shallow, or steep Lots, and other exceptional physical conditions; or undue use hardships; whereby such strict application would result in practical difficulty or unnecessary hardship what would deprive the owner of the reasonable use of the Land or buildings. Variances must meet the criteria of Town Law and the regulations and intent of this Ordinance. In granting any variance, the ZBA shall prescribe any conditions that it deems to be necessary or desirable.
- C. Procedure: The Board of Appeals shall act in strict accordance with the procedure specified by Law and by this Ordinance. All appeals and applications made to the Board shall be in writing and on a form prescribed by the Town. Every appeal or application shall refer to the specific provisions of the Ordinance being appealed or reviewed and shall exactly set forth the interpretation that is claimed, the use for which the permit is sought, or the details of the appeal/review that is applied for and the grounds on which it is claimed that it should be granted, as the case may be. A hearing shall be held for all variance and site plan actions in conformance with the requirements of Town Law. Every decision of the Board of Appeals shall contain a full description of reasons for granting or denying the permit. The reasons for the action shall be set forth in the minutes of the Board of Appeals meeting at which the action was taken. A tally of each members vote shall be recorded.
- D. All variance actions that fall within 500 feet of the boundary of the Town; a State/County

park or recreation area; a State or County highway or expressway; a State or County owned drainage channel; and State or County Land where a public building or institution is located shall be referred to the Jefferson County Planning Board for their recommendations thereon. If the County Planning Board does not respond within thirty (30) days from the time it received a full statement on the referred matter then the local board may act without such report. The local board must report to the County Planning Board on its final action within seven days of that event. (This is a summary of General Municipal Law Article 12-B, Section 239 m and all details of this Law must be followed.)

Section 10.06 Violations and Penalties

- A. Violations and Penalties. Any person, firm, or corporation violating any provision of this Ordinance shall, upon conviction, be subject to a fine of not less than \$50.00 nor more than \$250.00 for a first offense; not less than \$100.00 nor more than \$250.00 for a second offense; and not less than \$200.00 nor more than \$250.00 for a third, or more, offense all within the same calendar year. Each week's continued violation shall constitute a separate offense.
- B. Complaints of Violations: Whenever a violation of this Ordinance occurs, the Enforcement Officer, Town or any person may file a complaint in regard thereto. Complaints may be verbal, or in writing. The Enforcement Officer shall investigate and report thereon to the Town Board and shall institute appropriate Legal procedures to correct the violation or issue Penalties. This shall be done by a stop work order, and order to correct the violation, being issued. If the violation is not corrected within the specified time, the Town may seek an injunction against the violator and require his or her appearance in court. The seeking of an injunction shall not preclude the Town from enforcing the penalty provisions contained in the above paragraph.

ARTICLE 11 AMENDMENTS

The Town Board may from time to time on its own motion, or on petition amend, supplement, or repeal the regulations and provisions of this Ordinance after appropriate public notice and hearing (as provided for in Town Law).

Section 11.01 Procedure

The Town Board by resolution adopted at a stated meeting shall fix the time and place of public hearing on the proposed amendments and cause notice to be given as follows:

- A. By publishing a notice at least ten (10) days prior (as per Section 264 and 265 of NYS Town Law) to the time and place of such hearing in a paper of general circulation in the Town.
- B. A written notice of any proposed change or amendment affecting property within 500 feet of the boundary of the Town; a State/County park or recreation area; a State or County highway or expressway; a State or County owned drainage channel - and State or County land where a public building or institution is located shall be referred to the Jefferson County Planning Board for their recommendations thereon. If the County Planning Board does not respond within thirty (30) days from the time it received a full statement on the referred

matter then the local board may act without such report. The local board must report to the County Planning Board on its final action within seven (7) days of that event. (This is a summary of General Municipal Law Article 12-B, Section 239 m and all details of this Ordinance must be followed.) In addition, any such amendments affecting property within 500 feet of the Town Boundary shall be sent to the appropriate neighboring Town Clerk.

- C. Other provisions of posting, publication and action on the amendments; as set forth in Town Law; shall be adhered to.
- D. The Town Board shall refer all amendment proposals to the Planning Board for a 30 day (maximum) review and recommendation period, prior to Town Board action thereon. If the Planning Board does not recommend on the proposal (to the Town Board) within this period, it shall be deemed that they have approved the proposal.

ARTICLE 12 INTERPRETATION AND SEVERABILITY

Section 12.01 Interpretation

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

Section 12.02 Severability

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

ARTICLE 13 EFFECTIVE DATE

This Ordinance shall take effect ten days after its publication as provided by Town Law.