

# Town of Florida

Montgomery County, New York

## **ZONING ORDINANCE**

May 23, 2016  
Updated July 17, 2019

Town of Florida, Montgomery County, New York

## **ZONING ORDINANCE**

The attached Zoning Ordinance, including "Schedule A" and a Zoning Map was adopted by the Town Board of the Town of Florida on September 16, 1976. Subsequent amendments were adopted on August 15, 1977; March 20, 1978; December 28, 1978; July 16, 1979; March 20, 1989; January 27, 1997; February 2001, February 17, 2003, June 21, 2004, March 21, 2005, and on January 20, 2014.

Amendments that were adopted on May 16, 2016, were prepared by Montgomery County Business Development Center, which included the following:

1. Added definitions and supplemental definitions to Article III, Definitions.
2. Added Article VIII, Section 45.5 – Solar Energy Systems and Equipment.
3. Revised Article XI, Section 52 – Building Permit.
4. Revised Town Zoning Map.
5. Added District Bulk Tables.

Amendments that were adopted on December 17, 2018 include the following:

1. Added Section 6.1 Planned Unit Development to Article IV: Districts and Boundaries

Amendments that were adopted on March 18, 2019 include the following:

1. Revised Article VIII, Section 45.5 – Solar Energy Systems and Equipment

## **Acknowledgements**

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Town of Florida Website: [www.townofflorida.com](http://www.townofflorida.com)

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**Zoning District Map**

(Last Revised February 2016, prepared by Montgomery County Business Development Center)

TOWN OF FLORIDA  
MONTGOMERY COUNTY, NEW YORK

AN ORDINANCE regulating and restricting the location, construction, alteration and use of buildings and land in the Town of Florida, Montgomery County, New York, pursuant to the Zoning provisions of ARTICLE 16 of the Town Law of the State of New York.

THE TOWN OF FLORIDA TOWN BOARD, by virtue of the power and authority vested in it by law, does hereby ordain and enact as follows:

**ARTICLE I - TITLE**

**SECTION 1** - This ordinance shall be known and may be cited as "The Town of Florida Zoning Ordinance."

**ARTICLE II - PURPOSES & SEPARABILITY**

**SECTION 2** - This ordinance is enacted for the following purposes:

1. To lessen congestion in the streets;
2. To secure safety from fire, flood, panic and other dangers;
3. To promote health and general welfare;
4. To provide adequate light and air;
5. To prevent overcrowding of land;
6. To avoid undue concentration of population;
7. To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
8. To conserve the value of buildings;
9. To encourage the most appropriate use of land throughout the Town;
10. To avoid the pollution of air and water;
11. To insure the gradual elimination of non-conforming uses;

Separability: Should any section or provision of this ordinance or as amended hereafter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

## **ARTICLE III - DEFINITIONS**

### **SECTION 3 – General**

For the purpose of this ordinance certain words or terms used herein shall be interpreted or defined as follows:

Words used in the present tense shall include the future. The singular number includes the plural, and the plural the singular. The word "person" includes a corporation as well as an individual.

The word "building" includes the word "plot" or "parcel". The word "used" or "occupied" as applied to any land or building shall be construed to include the words "built, arranged or designed to be used or occupied".

### **SECTION 4 – Definitions**

**ACCESSORY BUILDING:** A building subordinate to the main building on a lot and used for purposes customarily incidental to those of the main building.

**ACCESSORY USE:** A use customary incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

**ADJACENT:** Adjacent shall mean a tract or real property contiguous to another tract of real property or separated by a road, river, easement or right-of-way. [HISTORY: Definition added by resolution of Town of Florida Town Board on January 20, 2014].

**ADULT ORIENTED BUSINESS:** Whenever used in this ordinance, the words "Adult Oriented Business" or "Adult Oriented Businesses" apply to the following types of establishments, and any others which exclude or restrict minors by reason of age.

**ADULT BOOKSTORE OR VIDEO STORE:** An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, other periodicals, films, slides or video tapes and which establishment excludes or restricts minors by reason of age.

**ADULT ENTERTAINMENT CABARET:** A public or private nightclub, bar, restaurant, or similar establishment which presents topless or bottomless dancers, strippers, male or female impersonators, exotic dancers, or other similar entertainment, and which establishment excludes or restricts minors by reason of age.

**ADULT MOTEL:** A motel which excludes or restricts minors by reason of age, and which makes available to its patrons in their rooms films, slide shows or videotapes, which if presented in a public movie theatre would exclude or restrict minors by reason of age.

**ADULT THEATRE:** A theatre that customarily presents motion pictures, films, videotapes or slide shows, and that excludes or restricts minors by reason of age.

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

**PEEP SHOW:** A theatre which presents material in the form of live shows, films or videotapes, viewed from an individual enclosure, and which excludes or restricts minors by reason of age.

**ALLEY:** A minor way which is used primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

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

**APPLICANT:** The legal, real property contract vendee, or beneficial owner or owners of a lot or of any land included in the proposed development. Also, the holder of an option or contract to purchase, or any other person having enforceable proprietary interest in such land.

**AREA, BUILDING:** The total ground area of a principal building and accessory buildings, exclusive of uncovered porches, parapets, steps and terraces.

**BASEMENT:** A space of full story height partly below grade and having at least half of its clear floor-to-ceiling height above the average grade, and which is not designed or used primarily for year-round living accommodations.

**BED AND BREAKFAST:** An establishment in a private dwelling that supplies temporary accommodations to overnight guest for a fee. Meals may or may not be provided. Tourist homes and inns are included here.

**BOARDING OR ROOMING HOUSE:** Any dwelling in which more than three persons, either individually or as families are housed or lodges, except those engaged in farm work, for hire with or without meals, and/or any dwelling with ten or less sleeping rooms in which more than three persons, either individually or as families, are housed or lodged, except those engaged in farm work, for hire or otherwise, without separate kitchen facilities, with or without meals. If there are more than ten sleeping rooms, such buildings shall be considered hotels.

**BUFFER ZONE:** Open spaces, landscaped areas, fences, walls, berms or any combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances.



**BUILDING:** Any roofed structure intended for the shelter, housing or enclosure of persons, animals or property. When a building is divided into separate parts extending from the ground up, each part so divided is deemed a separate building.

**BUILDING LINE:** A line established by law, usually parallel with a property line, beyond which a structure may not extend.

**BUILDING, FLOOR AREA:** The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, including basement areas devoted to residential use and the area of bays, dormers, roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

**CELLAR:** That space of a building which has more than half of its height, measured from floor to ceiling, below the average grade.

**CODE ENFORCEMENT OFFICER:** The duly appointed Code Enforcement Officer for the Town of Florida. [History: Definition added by Wind Turbine Facilities Law, Local Law No. 1 of 2008, as adopted by the Town of Florida Town Board on October 20, 2008].

**COMMERCIAL RECREATION:** Commercial recreation premises consisting of woodlands, water courses, and fields used for active recreational activities that do not require modifying the existing setting, including but not limited to, paintball, laser tag, horseback riding, and orienteering. [HISTORY: Definition added by resolution of Town of Florida Town Board on May 16, 2016].

**COMMUNITY PARK OR PLAYGROUND:** Land managed by the public and set aside for public use which may or may not have developed recreational facilities, such as playground, tennis courts, horse and bike trails, baseball fields, picnic areas, swimming pools and/or lavatories.

**DRIVEWAYS AND PASSAGE WAYS:** Private access routes which directly service a parking area; or serving parking spaces not directly serving more than two (2) dwelling units, and not providing a route for through traffic. Minimum driveway widths shall be as follows:

PARKING ANGLE	DRIVING WIDTH
No Parking	18'
Parallel	20'
45° one-way	20'
60° one-way	20'
90° one-way	24'

**DWELLING, ONE-FAMILY:** A detached building, other than a trailer or other temporary structure designed for exclusive year-round occupancy by one family only.

**DWELLING, TWO-FAMILY:** A detached building, other than a trailer or other temporary structure, designed for exclusive year-round occupancy by two families living independently of each other.

**DWELLING, TEMPORARY:** Any tent, trailer or other temporary structure used for human shelter which is designed to be transportable and which is not permanently attached to the ground, to another structure or to any utilities system on the same premises for more than 30 consecutive days. Commonly known as "temporary home" or "temporary housing." [History: Definition added by resolution of Town of Florida Town Board on January 20, 2014].

**DWELLING, MULTIPLE FAMILY:** A building or group of buildings, designed for year-round occupancy by more than two families, including apartment houses and group houses, but excluding hotels and rooming houses.

**DWELLING UNIT:** One or more rooms with provision for living, sanitary, and sleeping facilities arranged for the use of one family.

**FAMILY:** Any number of persons or recognized relationships maintaining a common household, including domestic help.

**FARM:** A parcel or tract of land which is used for growing agricultural products, horticulture products, raising livestock, raising fruits and/or vegetables or agriculture production. For the purposes of Section 9, paragraph (A) an "agricultural operation" shall not include any farm having less than \$10,000.00 gross sales in the year preceding the date on which the owner applies for a building permit to erect a mobile home as an accessory use. In addition the occupant of a mobile home as an accessory use must be a fulltime employee of the "agricultural operation" whose total documented compensation from such employment in agriculture is not less than \$10,000 a year in wages.

**FARM PRODUCTS PLANT:** Any operation which starts with a farm product, including but not limited to vegetables, fruits, milk, beef, pork, lamb, chicken, eggs, turkey etc. and whose end product packages that product in a form suitable for retail market distribution. This definition includes but is not limited to dairies, cheese plants, vegetable/fruit canneries, slaughterhouses etc.

**FARM STAND:** The sale of agricultural products that are produced on the premises.

**FRONT:** That part of a parcel of land or building abutting or facing the principal street or road. In the case of corner lots on two intersecting streets or road the parcel will be considered to have two front yards, one side yard and one rear yard at minimum.

**GARAGE, PRIVATE:** A roofed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises.

**GARAGE, PUBLIC:** A building or part thereof for the storage, hiring, selling, greasing, washing, servicing, or repair of motor-driven vehicles, operated for gain.

**GASOLINE STATION:** Any area of land, including structures thereon, that is used or designed to be used for the sale of gasoline or oil or other motor vehicle fuel and which may include facilities for lubricating, washing, cleaning, or otherwise servicing motor vehicles, not including the painting or major repair thereof. The term "Gasoline Station" shall be deemed to include filling station and service station.

**GREENSPACE:** Area of land with vegetative cover.

**HISTORIC BUILDING OR SITE:** A building or area which has historic and special public value because of notable architectural or other features relating to the cultural, historic, or artistic heritage of the community.

**HOME OCCUPATION:** An occupation or profession which is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; and is carried on by a member of the family residing in the dwelling unit; and is clearly incidental and secondary to the use of the dwelling unit for residential purposes; and which conforms to the following additional conditions.

1. The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto.
2. No more than one person outside the family shall be employed in the home occupation.
3. There shall be no exterior display, nor any exterior sign except a business sign, no exterior storage or materials and no other exterior indication of the home occupation or variation from the residential character of the principal building. The Business Sign shall comply with Section 34 of this ordinance.
4. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.

A home occupation includes, but is not limited to art studio; dress-making; barber shop or beauty parlor; professional office of physician; dentist, lawyer, engineering, architect, accountant; or musical instruction limited to a single pupil at a time.

**HOSPITAL:** A building or structure for the diagnosis and medical or surgical care of human ailments.

**HOTEL:** Facility offering transient lodging accommodations to the general public and providing additional service such as restaurants, meeting rooms and recreational facilities. The word "hotel" includes the words "motel," "motel court," "inn," "tourist court," or similar names excluding rooming houses and Bed and Breakfast establishments.

**JUNK YARD:** A lot, land or structure, or part thereof, used for the collecting, storage and sale of waste paper, rags, scrap metal or discarding material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles, and for the sale of the parts thereof; or for the storing or abandonment of two or more unlicensed or unregistered motor vehicles for 30 days or more.

**KENNEL:** A structure used for the harboring for hire of four or more dogs or cats, more than six months old.

**LAUNDERETTE:** A business premises serviced by municipal sewerage or a NYSDOH approved system, equipped with individual clothes washing or cleaning machines for use by retail customers, exclusive of laundry facilities provided in an apartment, fraternity, sorority, residential hotel or club.

**LIGHT ASSEMBLY PLANT:** A use engaged in the creation, predominately from previously prepared materials, of finished products or part, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but excluding basic industrial processing.

**LIVING AREA:** The sum of the gross horizontal area of the several floors of a building, including areas below grade devoted to residential use. All dimensions shall be measured between exterior faces of walls.

**LIVESTOCK:** Animals including but not limited to horses, cattle, goats, sheep, chickens, turkeys, ducks and other useful animals kept or raised on a farm or ranch. [HISTORY: Definition added by resolution of Town of Florida Town Board on January 20, 2014].

**LOADING SPACE:** A paved area designed for the parking, loading and unloading of delivery vehicles.

**LOT:** A parcel of land considered as a unit, occupied or capable of being occupied by a building or use and accessory buildings or uses, or by a group of buildings united by a common use or interest; and including such open spaces as are required by this ordinance, and having its principal frontage on a public street or an officially approved place.

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

**LOT, CORNER:** A lot located at the intersection of and fronting on two or more intersecting streets, and having an interior angle at the corner of intersection of less than 135 degrees.

**LOT, COVERAGE:** That portion of the lot that is covered by buildings. **LOT, INTERIOR:** A lot other than a corner lot.

**LOT, THROUGH:** A lot having frontage on two approximately parallel or converging streets other than a corner lot.

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

**LOT, WIDTH:** The distance between side lot lines measured parallel to the front lot line at a distance from the front lot line equal to the front yard specified for the district, except as noted in Section 16.

**MINERAL:** any naturally formed, usually inorganic, solid material located on or below the surface of the earth. For the purposes of this ordinance, peat and topsoil shall be considered minerals.

**MINING:** The extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or parts thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial, or construction use; exclusive of manufacturing processes, at the mine location; the removal of such materials through sale or exchange, or for commercial, industrial or municipal use; and the disposition of overburden, tailings and waste at the mine location. "Mining" shall not include the excavation, removal and disposition of minerals from construction products, exclusive of the creation of water bodies, or excavations in aid of agricultural activities.

**MINOR:** A person less than seventeen (17) years of age.

**MOBILE HOME:** A movable single dwelling unit equipped with a chassis designed for and providing housekeeping facilities for year-round occupancy including plumbing, heating, electrical, cooking and refrigeration systems and equipment.

**MOBILE HOME PARK:** A parcel of land which has been planned and improved for the placement of two or more mobile homes for non-transient use.

**MODULAR HOME:** A prefabricated dwelling unit capable of being delivered to a site in several sections and is indistinguishable in appearance from conventionally built homes.

**NAMEPLATE:** A plaque or sign for non business purposes bearing the name of the owner of the residence and no larger than eight (8) square feet.

**NON-CONFORMING USE:** A structure or land lawfully occupied by a use that does not conform to the regulations of the district in which it is located.

**NURSING OR CONVALESCENT HOME OR HOME FOR THE AGED:** A building used for the accommodation and care of persons with, or recuperating from, illness or incapacity, where nursing services are furnished, or for the accommodation and care of persons of advanced age.

**OPEN SPACE:** Any parcel or area of land or water essentially unimproved by buildings.

**OUTBUILDING:** A structure that has no walls connected to the primary residence on a parcel of property. [HISTORY: Definition added by resolution of Town of Florida Town Board on May 16, 2016].

**PARKING SPACE:** The area required for parking one automobile which in this ordinance is held to be an area at least nine feet wide and 20 feet long, exclusive of passageways and driveways thereto.

**PAVILION:** A building in a park or garden that usually has open sides and is used for parties, concerts, or other events. [HISTORY: Definition added by resolution of Town of Florida Town Board on May 16, 2016].

**PERMANENT FOUNDATION:** Concrete or stone walls which support the bottom floor and exterior walls of a building and extending below the ground deeper than the average annual frost level, or a reinforced concrete base below the bottom floor of a building of sufficient thickness and having a suitable subway to resist shifting and heaving from changes in temperature and moisture conditions in the ground beneath the building.

**PERSONAL SERVICE SHOPS:** Establishments providing services or entertainment, as opposed to products, to the general public including, but not limited to: cleaning and garment services, beauty shops, photography shops, shoe repair, barber shops, funeral services, clothing rental, reduction salons and tanning parlors.

**PERSONAL WIRELESS SERVICES:** Shall mean any person, firm, corporation, or governmental agency, duly licensed/authorized to furnish the public, under governmental regulation, commercial mobile services, wireless telecommunication services, and common carrier wireless exchange access services, including cellular radiotelephone, specialized mobile radio system and personal communication services, which are regulated by the Federal Communications Commission in accordance with the Communication Act of 1934 (47U.S.C. Sections 151-613 (1988) as it may hereinafter be amended from time to time.

**PERSONAL WIRELESS SERVICE FACILITY:** Is a facility for the provision of Personal Wireless Services. A Personal Wireless Service Facility includes an Antenna, Equipment Mounting Structure, and accessory buildings and equipment. For purposes of this Zoning Ordinance, a Personal Wireless Service Facility shall not be included within the definition of a "Public Utility Facility" as specified in this Zoning Ordinance.

**PLANNING BOARD:** The duly appointed Town of Florida Planning Board. [History: Definition added by Wind Turbine Facilities Law, Local Law No. 1 of 2008, as adopted by the Town of Florida Town Board on October 20, 2008].

**PORTABLE STORAGE UNIT:** A temporary, transportable unit designed and used primarily for temporary storage of building materials, household goods, personal items and other materials for use on a limited basis on a property. [History: Definition added by Wind Turbine Facilities Law, Local Law No. 1 of 2008, as adopted by the Town of Florida Town Board on October 20, 2008].

**POTABLE WATER:** Water used for drinking and bathing purposes by residents of the Town of Florida. [HISTORY: Definition added by resolution of Town of Florida Town Board on January 20, 2014].

**PREMISES:** A tract of real property in a single ownership which is not divided by a public street or right-of-way. [HISTORY: Definition added by resolution of Town of Florida Town Board on January 20, 2014].

**PROFESSIONAL OFFICE:** Offices for a person or persons whose vocation or occupation requires advanced training in a liberal art or science and whose service usually involves non-manual work.

**PUBLIC BUILDING:** Any town, county, state or federally owned building(s) or land including but not limited to: town halls and highway department garages.

**PUBLIC UTILITY:** Shall mean any person, firm, corporation or governmental agency, duly authorized to furnish the public, under governmental regulation electricity, gas, water sewage treatment, steam, cable television, or related communication service. This definition shall not bestow any special status or standing not already provided by State or Federal Law.

**PUBLIC UTILITY FACILITY:** A facility other than a Personal Wireless Service Facility for the provision of public utility services, including facilities constructed, altered or maintained by utility corporations, either public or privately owned, or governmental agencies, necessary for the provision of electricity, gas, steam, heat, communication, water, sewage collection, or such service to the general public. Such facilities shall include poles, wires, mains, drains, sewers, pipes, conduits, cables, alarms and call boxes and other similar equipment, but shall not include office or administrative buildings.

**RECOVERABLE MATERIALS:** An item that normally is not consumed in use and is subject to return for repair or disposal. [HISTORY: Definition added by resolution of Town of Florida Town Board on May 16, 2016].

**RESIDENCE:** A structure or portion thereof used as a dwelling unit.

**RESTAURANT:** A building or portion of a building wherein food and beverages are available for on-site or off-site consumption.

**RETAIL FARM MARKET:** The sale of agricultural products either produced on or off the premises.

**RETAIL STORE:** Any building or permanent structure or portion thereof in which one or more services or one or more articles of merchandise are sold at retail including department stores.

**SHED:** An accessory building which is no larger than 12'x12'x12'.

**SIGN:** Any device affixed to or painted or represented directly or indirectly upon a building, structure or land and which directs attention to an object, product, place, activity, person, institution, organization or business, but not including any flag, badge or insignia of any government or government agency, school, or religious group or of any civic, charitable, religious, patriotic, fraternal or similar organization, nor any official traffic control device. Each display surface shall be considered to be a "sign".

**SIGN, ADVERTISING:** A sign which directs attention to a business, commodity, service or entertainment sold or offered elsewhere than upon the premises where such sign is located, or to which it is affixed, only incidentally on the premises, if at all.

**SIGN, BUSINESS:** A sign which directs attention to a business or profession conducted, or a commodity, service, or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed. A "For Sale" or "For Let" sign relating to the lot on which it is displayed shall be deemed to be a business sign.

**SIGN, FLASHING:** A "flashing sign" is any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color when such sign is in use. For the purpose of this ordinance any revolving, illuminated sign shall be considered a "flashing sign".

**SIGN, EXEMPT:** Any sign which is specifically listed as exempt from this ordinance. Said listed exempt signs are not regulated by the terms of this ordinance and shall not require a permit. [HISTORY: Definition added by resolution of Town of Florida Town Board on January 20, 2014].

**SIGN, NONCOMMERCIAL:** Any sign which is not by definition an off-premise advertising sign, or off-premise directional sign, an on-premise advertising sign, or an on-premise directional or information sign, and which sign displays a substantive message, statement or expression that is protected by the First Amendment to the U.S. Constitution. Noncommercial signs shall not contain any reference to a business or product. [HISTORY: Definition added by resolution of Town of Florida Town Board on January 20, 2014].

**SIGN, NONCONFORMING:** Signs that are erected and is place prior to the adoption of this ordinance and which do not conform to the provisions of this ordinance and which do not conform to the provisions of this ordinance are declared nonconforming signs. A sign that is erected and that is in place and which conforms to the provisions of the sign ordinance at the time it is erected, but which does not conform to an amendment of this ordinance enacted subsequent to the erection of said sign is declared a nonconforming sign. [HISTORY: Definition added by resolution of Town of Florida Town Board on January 20, 2014].

**SIGN, OFF-PREMISE ADVERTISING:** Any sign advertising a product, service, business or activity sold, located or conducted elsewhere than on the premises on which the sign is located, or which said product, service, business or activity is sold, located or conducted on such premises only incidentally, if at all. [HISTORY: Definition added by resolution of Town of Florida Town Board on January 20, 2014].

**SIGN, OFF-PREMISE DIRECTIONAL:** Any off premise sign indicating the location of or directions to a business, office or other activity. The sign shall not include any information or message except the name of the business or activity or symbols or logos of the business, and must have directions or symbols indicating directions and/or distances. If a sign exceeds the maximum area it shall be constructed as an off-premise advertising sign. (Off-Premise Yard sale directional signs and Off-Premises real estate directional signs are herein included as examples but such yard sale signs and real estate signs are exempted from the terms and conditions of this Ordinance.) [HISTORY: Definition added by resolution of Town of Florida Town Board on January 20, 2014].

**SIGN, ON-PREMISE ADVERTISING:** Any sign advertising or identifying a product, service, business or activity sold, located or conducted on the premises where the sign is located.[HISTORY: Definition added by resolution of Town of Florida Town Board on January 20, 2014].



**SIGN, ON-PREMISE DIRECTIONAL AND INFORMATIONAL:** On-premise signs which provide directions or information for persons on the premises including, but not limited to, entrance and exit signs, parking information, and handicapped access.

[HISTORY: Definition added by resolution of Town of Florida Town Board on January 20, 2014].

**SIGN, PROHIBITED:** Any sign, or element of a sign, which is specifically listed as prohibited shall not be permitted within the jurisdiction of this ordinance. [HISTORY: Definition added by resolution of Town of Florida Town Board on January 20, 2014].

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

**SITE PLAN REVIEW:** A review and approval process, conducted by the Planning Board, whereby site plans are reviewed utilizing criteria stated in the ordinance and as authorized by Town Law.

**SPECIAL PERMITTED USE:** A use or property that is basically appropriate to a given zoning district, but which may be incompatible in some locations within the district and therefore is not permitted by right everywhere within such districts. A special permitted use, therefore, is one which is allowable only when facts and conditions specified in the ordinance as those upon which the use is permitted are found to exist.

**SOLAR ENERGY EQUIPMENT AND SYSTEMS:** Solar collectors, controls, energy storage devices, and any other materials, hardware or equipment necessary to the process by which solar radiation is collected and converted into another form of energy and is stored, protected from unnecessary dissipation and distributed. Solar energy systems include solar thermal, photovoltaic and concentrated solar. [History: Definitions added by Local Law No. 2 of 2015 Town of Florida Town Board on December 21, 2015].

**ACCESSORY STRUCTURE:** A structure, the use of which is customarily incidental and subordinate to the principal building, and is located on the same lot or premises as the principal building.

**BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS:** A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or façade and which does not later the relief of the roof.

**COLLECTIVE SOLAR:** Solar installations owned collectively through subdivision homeowner associations, college student groups, “adopt-a-solar-panel” programs, or other similar arrangements.

**ENERGY STORAGE DEVICE:** A device that stores energy from the sun or another source and makes it available for use.

**FLUSH-MOUNTED SOLAR PANEL:** Solar collector systems, panels, and tiles that are installed flush to the surface of a roof or wall of a principal and/or an accessory structure and which cannot be angled or raised for the direct conversion of solar energy into electricity.

**FREESTANDING OR GROUND-MOUNTED SOLAR COLLECTOR SYSTEM:** A solar collector system that is directly installed on the ground and is not attached or affixed to an existing structure and used for the direct conversion of solar energy into electricity.

**GLARE:** The effect produced by light with intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**NET-METERING:** A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage at the end of the month.

**PERMIT GRANTING AUTHORITY:** The Town of Florida Building Inspector is the authority authorized to grant permits for the installation of alternative energy systems.

**PHOTOVOLTAIC (PV) SYSTEMS:** A solar energy system that produces electricity by the use of the semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

**ROOFTOP OR BUILDING MOUNTED SOLAR COLLECTOR SYSTEM:** A solar collector in which solar panels are mounted on top of a roof of a principal and/or an accessory structure either as a flush-mounted system for the direct purpose of converting solar energy into electricity.

**SETBACK:** The distance from a front lot line, side lot line, or rear lot line of a parcel within which a free standing or ground mounted solar energy system is installed.

**SMALL-SCALE SOLAR COLLECTOR SYSTEM:** A solar energy system that is designed and/or built to provide power for use by owners, lessees, tenants, residents, or other occupants of the premises on which they are erected, and is constructed for the sale of excess power through an arrangement in accordance with New York Public Service Law 66-j or similar state or federal law or regulation.

**SOLAR ACCESS:** Space open to the sun and clear of overhangs or shade including the orientation of streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

**SOLAR ARRAY:** A group of multiple solar modules with purpose of harvesting solar energy.

**SOLAR CELL:** The smallest basic solar electric device which generates electricity when exposed to light.

**SOLAR COLLECTOR:** A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

**SOLAR ENERGY EQUIPMENT/SYSTEM:** Solar collectors, controls, energy devices, heat pumps, heat exchangers, and or other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed. Solar systems include solar thermal, photovoltaic and concentrated solar.

**SOLAR, GROUND OR POLE-MOUNTED SOLAR ARRAY:** Any solar collector, controls, solar energy device, heat exchanges or solar thermal energy system which is directly installed on the ground and not affixed to an existing structure.

**SOLAR PANEL:** A device for the direct conversion of solar energy into electricity.

**SOLAR STORAGE BATTERY:** A device that stores energy from the sun and makes it available in an electrical form.

**SOLAR-THERMAL SYSTEMS:** Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

**UTILITY-SCALE SOLAR COLLECTOR SYSTEM:** A solar energy system that is designed and/or built to provide energy as an ongoing commercial enterprise, or for commercial profit, or designed to distribute energy generated to a transmission system for distribution to customers rather than for use on the site. A utility-scale solar use may include solar energy system equipment and uses, such as but not limited to supporting posts and frames, buildings and/or other structure(s), access drives, inverter equipment, wires, cables and other equipment for the purpose of supplying electrical energy produced from solar technologies, whether such use is a principal use, a part of the principal use or an accessory use or structure.

**SOLAR ENERGY SYSTEM:** A complete system intended for the collection, inversion, storage, and/or distribution of solar energy and that directly or indirectly generates thermal, chemical, electrical, or other usable energy. A solar energy system consists of, but is not limited to, solar collectors, mounting devices or structures, generators/turbines, water and energy storage and distribution systems, storage, maintenance and/or other accessory buildings, inverters, combiner boxes, meters, transformers, and all other mechanical, electrical, and plumbing components. [History: Definition added by resolution of Town of Florida Town Board on January 20, 2014].

**STABLE, PRIVATE:** A principal or accessory building in which horses are kept for private use and not for hire or sale.

**STABLE, PUBLIC:** A principal or accessory building in which horses are kept for remuneration, hire or sale.

**STORY:** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

**STORY, HALF:** That part of a building between a pitched roof and the uppermost full story, and having a floor area at least half as large as the floor below. Space with less than five feet clear headroom shall not be considered as floor area.

**STREET:** A public way which affords the principal means of access to abutting property.

**STRUCTURE:** Any building or other construction, with or without a roof, which requires location on the ground or attachment to something having location on the ground.

**STRUCTURAL ALTERATION:** Any change in the supporting members of a building.

**SWIMMING POOL:** Any outdoor water pool intended for bathing or swimming purposes, made of concrete, masonry, metal or other impervious material, maintained in a residential district, which will cause the retaining of water to a greater depth than 18 inches and having a plane surface area of water greater than 100 square feet. [History: Definition added by resolution of Town of Florida Town Board on January 20, 2014].

**THEATER, OUTDOOR:** An open lot or part thereof, with its appurtenant structures and facilities, devoted primarily to the showing of motion pictures or theatrical production on a paid admission basis.

**TOURIST HOME:** A dwelling where transient guests are lodged for hire.

**TOWN HOUSE:** One of several units in a building designed for and occupied exclusively as a residence for not more than one family living independently of any other family, separated from other units by a party wall or walls, and erected on a lot intended to be held in the form a condominium or in a single and separate ownership from any adjoining units.

**TRAILER:** A mobile unit designed for camping, recreational travel, or vacation use which is equipped with a chassis and provides partial housekeeping facilities such as plumbing, heating, electrical, cooking or refrigeration systems or equipment.

**TRAILER CAMP:** An area occupied or designed for occupancy by two or more trailers.

**TRUCK TERMINAL:** A building or area in which freight brought by truck is assembled and/or stored for routing or reshipment, or in which semi-trailers, including tractor and/or trailer units and other trucks are parked or stored.

**VARIANCE:** Permission to depart from the literal requirements of the zoning ordinance.

**VARIANCE, AREA:** A departure from the area setback, frontage, coverage, size or other requirements of the applicable zoning district, or a departure from any provision of this ordinance except use.

**VARIANCE, USE:** A variance granted for a use or structure that is not permitted in the zoning district.

**WHOLESALE STORAGE OR WAREHOUSE:** A building or buildings used as a wholesale distribution center.

**WECS:** Any mechanism designed for the purpose of converting wind energy into electrical power. Commonly known as a "wind turbine" or "windmill," the WECS includes all parts of the system except the tower and the transmission equipment; the turbine or windmill may be on a horizontal or vertical axis, rotor or propeller [History: Definition added by Wind Turbine Facilities Law, Local Law No. 1 of 2008, as adopted by the Town of Florida Town Board on October 20, 2008].

**WECS, ROOF MOUNTED:** A relatively small wind generating facility generating original power on-site for on-site use by the property owner or homeowner, mounted on the principle building's roof and with a maximum height no greater than ten (10) feet above the highest point of the roof on which it is mounted. [History: Definition added by Wind Turbine Facilities Law, Local Law No. 1 of 2008, as adopted by the Town of Florida Town Board on October 20, 2008].

**WECS, COMMERCIAL:** A WECS that generating original power on site to be transferred to a transmission system for distribution to customers. [History: Definition added by Wind Turbine Facilities Law, Local Law No. 1 of 2008, as adopted by the Town of Florida Town Board on October 20, 2008].

**WECS, NONCOMMERCIAL:** A WECS that supplies power solely for on-site use, except that when a parcel on which a noncommercial WECS is installed also receives electrical power supplies by a utility company, excess electrical power generated by a noncommercial WECS and not presently needed for on-site use may be used by the utility company in exchange for a reduction in the cost of electrical power supplied by that company to the parcel for on-site use, as long as no net revenue is produced by such excess electrical power. [History: Definition added by Wind Turbine Facilities Law, Local Law No. 1 of 2008, as adopted by the Town of Florida Town Board on October 20, 2008].

**WELLHEAD:** The location of a potable water well on a property. [HISTORY: Definition added by resolution of Town of Florida Town Board on January 20, 2014].

**YARD, FRONT:** An open unoccupied and unobstructed space on the same lot with a main building, extending the full width of the lot and situated between the front property line and the front line of the main building projected to the side lines of the lot.

**YARD, REAR:** A space on the same lot with a main building, open and unoccupied except for accessory buildings, extending the full width of the lot and situated between the rear line of the main building projected to the side lines of the lot and the rear line of the lot.

**YARD, SIDE:** An open unoccupied space on the same lot with a main building, situated between the side line of the main building and the adjacent side line of the lot extending from the front yard to the rear yard. Any lot line not a front line or rear line shall be deemed a side line.

## **ARTICLE IV - DISTRICTS AND BOUNDARIES**

### **SECTION 5 - Establishment of Districts**

For the purpose of this ordinance, the Town of Florida is divided into the following types of classes of districts:

R-1	Residential
R-M	Mobile Home Residential
A	Agricultural
C-1	Commercial-1
C-2	Commercial-2
IBP	Industrial Business Park
N-P	Natural Products
H	Historic

Said districts are bounded and defined as shown on a map entitled "Zoning Map Town of Florida," hereinafter called the Zoning Map, adopted by the Town Board and certified by the Town Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this ordinance.

### **SECTION 6 - Interpretation of District Boundaries**

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

1. Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines, or highway right-of-way lines such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries.
2. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
3. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of said railroad line.
4. Where the boundary of a district follows a stream or other body of water, said boundary line shall be deemed to be the center line of such stream or body of water unless otherwise indicated.
5. Where the district boundary lines are indicated to be approximately parallel to a street or highway they will be considered to be five hundred (500) feet from the nearest street or highway line and parallel to it, or along the back line of properties of record fronting on said street or highway, whichever line is closer to the street at the time this ordinance becomes effective, unless otherwise noted.

**SECTION 6.1 Planned Unit Development (PUD)****§ 6.1-1 Intent and objectives.****A. Intent.**

(1) It is the intent of this planned unit development (PUD) article to provide flexible land use and design regulations to provide for the rezoning of land to permit the establishment of areas in which diverse uses may be brought together in a compatible and unified plan of development, which shall be in the interest of the general welfare of the public.

(2) This article recognizes that, while the standard zoning function and the subdivision function are appropriate for the regulation of the land use in areas of neighborhoods which are already substantially developed, these controls may not be appropriate in certain areas or for certain developments in the Town. Further, this article recognizes that a rigid set of space requirements, along with bulk and use specifications, would frustrate the application of this concept. Thus, where planned unit development techniques are deemed appropriate through the rezoning of land to a Planned Unit Development District by the Town Board, the set of use and dimensional specifications elsewhere in this chapter are herein replaced with an approval process in which an approved plan becomes the basis for continuing land use controls.

(3) PUDs are allowed at any location in the Town.

(4) In no case shall the regulations of this article be so interpreted as to circumvent the benefits of this chapter to the residents or occupants of adjoining properties. PUDs, as defined herein, may be established only in accordance with the procedure specified in this article.

**B. Objectives.** In order to carry out the intent of this article, the Planning Board shall consider the following objectives and find that the following objectives are satisfied by the project proposed pursuant to this article in order to issue a favorable report to the Town Board as provided in § 6.1-5:

(1) Whether the project provides a choice in the types of environment, occupancy tenure (e.g., individual ownership, condominium leasing), types of housing and sizes and community facilities available to existing and potential residents at all economic levels.

(2) Whether the project provides more usable open space and recreation and the linkage of open space areas.

(3) Whether the project provides more convenience to residents in the location of manufacturing, commercial and service areas, if applicable.

(4) Whether the project provides for the preservation of trees, outstanding natural topographic and geologic features and prevention of soil erosion.

(5) Whether the project provides for a creative use of land and related physical development which allows an orderly transition of land.

(6) Whether the project provides for an efficient use of land resulting in smaller networks of utilities and services, thereby lowering housing costs.

(7) Whether the project provides a development pattern in harmony with the objectives of the Comprehensive Plan.

(8) Whether the project provides a more desirable environment than would be possible through the strict application of other articles of this chapter.

(9) Whether the project provides scenic vistas, historic sites, and prevents disruption of natural drainage patterns.

(10) Whether the project utilizes landscaping and building design to present a sense of community, of integrated color schemes, architectural styles and layout.

**§ 6.1-2 General requirements.**

- A. Ownership. The tract of land for a project may be owned, leased or controlled either by a single person or corporation, or by a group of individuals or corporations. An application must be filed by the owner or jointly by owners of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners.
- B. Minimum area. The minimum area for a PUD shall be 25 contiguous acres of land. The Town Board may consider projects of lesser acreage where the applicant can demonstrate that the characteristics of his holdings meet the purposes and objectives of this article.

**§ 6.1-3 Considerations.**

In determining whether a planned unit development should be allowed, particularly as regards the intensity of land use, the Town Board shall consider the following factors:

- A. The need for the proposed land use in the proposed location.
- B. The availability and adequacy of water service.
- C. The availability and adequacy of sanitary waste disposal facilities.
- D. The availability and adequacy of transportation systems, including the impact on the road network.
- E. The pedestrian circulation and open space in relation to structures, throughout the proposed development, and as part of an adjoining or future connecting Townwide open and linear pathway system.
- F. The character of the neighborhood in which the PUD is being proposed, including the safeguards provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general.
- G. The height and mass of buildings and their relation to other structures in the vicinity.
- H. Potential impacts on local government services.
- I. Potential impacts on environmental resources, including wetlands, surface water, floodplains, and plant and wildlife communities.
- J. The general ability of the land to support the development, including such factors as slope, depth to bedrock, depth to water table and soil type.
- K. Other factors as may be deemed appropriate by the Town Board.

**§ 6.1-4 Pre-Application Process.**

- A. An applicant for a proposed PUD may request preliminary consultations and an informal assessment of the proposed PUD by the Zoning Enforcement Officer. General information about the proposed site and a description of the proposed PUD should be provided to the Zoning Enforcement Officer.
- B. An applicant for a proposed PUD may request pre-application conceptual review by the Town Board. A request for pre-application conceptual review shall be submitted in writing to the Zoning



Enforcement Officer, and should include:

(1) A narrative description of the proposed site in its current state. Such a description shall include, but not be limited to:

- (a) A general description of the location of the site within the Town;
- (b) A general description of the neighborhood context in which the site is located;
- (c) A description of the land uses and land use density present on the site and on those parcels immediately adjoining the site;
- (d) A description of the current zoning on site and on those parcels immediately adjoining the site;
- (e) A description of natural environs, including their condition, on the site and on those parcels immediately adjoining the site. Photographs are encouraged; and,
- (f) A description of the man-made features (buildings, structures, infrastructure – roads, water, sewer, telecommunication, etc.) on the site including a description of their condition. Photographs are encouraged.

(2) An existing conditions plan at a scale of one (1) inch equals fifty (50) feet illustrating the existing conditions including the location of buildings, structures, infrastructure, natural features and overall characteristics of the proposed site. The plan should extend five-hundred (500) feet beyond the boundary of the proposed site. A current aerial photograph with land uses and natural features identified is acceptable; and,

(3) A concept plan at a scale of one (1) inch equals fifty (50) feet illustrating how development could be accommodated on the proposed site if the standards of the current zoning district were complied with;

(4) A concept plan at a scale of (1) inch equals fifty (50) feet illustrating the design and layout of the proposed PUD; and,

(5) A brief narrative or tabular accounting of how the plans specified in Paragraphs 2; 3; and 4 of this section compare in terms of impacts to the proposed site and the adjoining neighborhoods. Impacts that may be compared include, but are not limited to:

- Traffic;
- Types of land use;
- Density of building coverage;
- Storm water runoff – volume and rate – pre and post development;
- Vegetative cover – retained and planted;
- Amount of pervious and impervious surface area – pre and post development;
- Building architecture pre – and post development;
- Preservation of natural features on the site pre – and post development;
- Creation/enhancement of pedestrian and bicycle infrastructure;
- Expansion of recreational opportunities; and,
- Protection of open space.

C. Once the Zoning Enforcement Officer determines that sufficient information has been provided by the applicant, he shall refer the request for pre-application conceptual review to the Town Board.

D. Upon receipt of a request for pre-application conceptual review for a PUD, the Town Board may: Decline to consider the request; or Accept the request and schedule a joint work session with the Planning Board to discuss the request and to formulate recommendations to the applicant.

E. After the joint work session with the Planning Board and any opportunity for public comment it determines to be appropriate, the Town Board shall provide written recommendations to the applicant on its request for pre-application conceptual review, taking into account the standards for PUD approval in Section 1.3 of this local law, the Planning Board's input and any public comment received.

F. The amount and value of guidance which can be expected in the pre-application process is dependent on the quality of the information provided. In this respect, such information (including access to the site of the proposed PUD) will be critical to that guidance; and, thus should be provided as soon as reasonably practical by the applicant.

G. Plans and information provided by the applicant shall not be binding upon the applicant; nor shall guidance or recommendations by the Planning Board or Zoning Enforcement Officer, or comments by the Town Board, for purposes of this local law be binding upon the Zoning Enforcement Officer, Planning Board, or Town Board with respect to any subsequent application for a proposed PUD.

#### **§ 6.1-5 Applications and zoning approvals.**

Whenever any planned unit development is proposed, before any permit for the erection of a permanent building in such planned unit development shall be granted and before any subdivision plat of any part thereof may be filed in the office of the Montgomery County Clerk, the developer or his authorized agent shall apply for and secure approval of such planned unit development in accordance with the following procedures:

1. Submit sketch plan to the Town Board for consideration. If the Town Board determines that the proposal merits further review, then it may refer the application to the Planning Board.
2. Planning Board review of rezoning referral and sketch plan and public hearing held by Planning Board.
3. Planning Board report to Town Board.
4. Town Board conducts a public hearing on rezoning and conducts SEQR review.
5. Upon approval of rezoning, review project elements for subdivision or site plan approvals.

##### **A. Application for sketch plan approval.**

(1) Sketch plan drawing. The application shall include a sketch plan drawn to scale, though it need not be to the precision of a finished engineering drawing, and it shall clearly show the following information:

- (a) The location of the various uses and their areas.
- (b) The general outlines of the interior roadways system and all existing rights-of-way and easements, whether public or private.
- (c) The general building design: The building design shall take into consideration factors including, but not limited to:
  - (1) The layout and design of buildings to provide for convenient access to and from adjacent uses and neighborhoods;
  - (2) Individual buildings shall generally be related to each other in design, masses, elevations, materials, elevation, placement and connections, to provide a visually and physically integrated development;

- (3) The design of buildings and the parking facilities to take advantage of the topography of the site, where appropriate, to provide separate levels of access;
- (4) The orientation of buildings, where possible, to ensure adequate solar orientation for maximization of passive and active solar energy options, light and air exposure to the rooms within and to adjacent properties;
- (5) The arrangement of buildings as to avoid undue exposure to concentrated loading or parking facilities wherever possible and shall be so oriented as to preserve visual and audible privacy between adjacent buildings; and,
- (6) All buildings shall be arranged so as to be accessible to emergency vehicles.

(d) The interior open space system.

(e) The overall drainage system.

(f) If grades exceed 3% or portions of the site have a moderate to high susceptibility to erosion or a moderate to high susceptibility to flooding and ponding, a topographic map showing contour intervals of not more than five feet of elevation, along with an overlay outlining the above susceptible soil areas, if any. If grades are less than 3%, the topographic map may be at ten-foot contour intervals.

(g) Principal ties to the community at large with respect to transportation (pedestrian and vehicular), water supply and sewage disposal.

(h) General description of the provisions of other community facilities, such as schools, fire protection services and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated.

(i) A location map showing uses and ownership of abutting lands.

(j) A long-form environmental assessment form.

(2) Additional sketch plan documentation. In addition, the following documentation shall accompany the sketch plan:

(a) Evidence of how the developer's particular mix of land uses meets existing community demands.

(b) A general statement as to how common open space is to be owned and maintained.

(c) If the development is to be staged, a general indication of how the staging is to proceed. Whether or not the development is to be staged, the sketch plan of this section shall show the intended total project.

(d) How the plan is in conformance with the Town's Comprehensive Plan.

(e) Evidence of the applicant's physical and financial competence to carry out the plan and his awareness of the scope of such a project.

(f) A draft Zoning Ordinance amendment applicable to the project for review by the Town Board. The draft shall identify all amendments to the ordinance required by the PUD.

(g) A fiscal impact analysis identifying projected short-and long-term impacts on municipal and school district budgets.

(3) In order to allow the Town Board and the developer to reach an understanding on basic design requirements prior to detailed design investment, the developer shall submit an

application of his proposal to the Town Board. The Town Board, at its next regularly scheduled meeting, may, if it determines that the proposal merits review, refer the application to the Planning Board for review and recommendation. The date of Planning Board receipt of the application shall be the next regular meeting of the Planning Board. If the Town Board determines that the proposal does not merit review because it does not meet the objectives of this article, it shall not refer the application to the Planning Board and no further action on the application shall be taken. After referral by the Town Board and receipt of all required information, as determined by the Planning Board, the Planning Board shall hold a public hearing and shall render either a favorable or an unfavorable report to the Town Board within 60 days of the closing of the public hearing.

(4) In reviewing the sketch plan, the Planning Board may call upon any public or private agencies or consultants that the Board feels are necessary to provide a sound review of the proposal. In addition to the fee listed on the schedule of fees, the Planning Board may charge a fee to developers of projects requiring legal and technical review, provided that the fee reflects the actual cost of legal and technical assistance to the Planning Board.

(5) A favorable report shall include a recommendation to the Town Board that the proposal has merit and should proceed to further consideration by the Town Board, including a public hearing to be held for the purpose of considering planned unit development districting. It shall set forth the reasons supporting the recommendation and shall be based on the objectives set forth in §6-1.1(B). Said report must include, at a minimum, the following findings:

- (a) That the proposal meets the intent and objectives of planned unit development, as expressed in this article.
- (b) That the proposal meets all the general requirements in this article.
- (c) That the proposal is conceptually sound in that it meets a community need and it conforms to accepted design principles in the proposed functional roadway system, land use configuration, open space system, drainage system and scale of the elements, both absolutely and to one another.
- (d) That there are adequate services and utilities available or proposed to be made available in the construction of the development.
- (e) That the proposal is in accordance with the Comprehensive Plan and furthers the policies, goals and/ or objectives of the Comprehensive Plan.

(6) An unfavorable report shall state clearly the reasons therefor and, if appropriate, point out to the applicant what might be necessary in order to receive a favorable report. The applicant may, within 10 days after receiving an unfavorable report, file an application for planned unit development districting with the Town Board. The Town Board may then determine, on its own initiative, whether or not it wishes to call a public hearing. If the Town Board determines not to hold a hearing, no further action shall be taken and the application shall be considered denied.

(7) The Planning Board shall determine when all of the necessary application material has been presented, and the Planning Board shall submit its report within 60 days of such determination. If no report has been rendered after 60 days, the applicant may proceed as if an unfavorable report were given to him.

**B. Application for planned unit development districting.**

- (1) Upon receipt of a favorable report from the Planning Board or upon its own determination subsequent to an appeal from an unfavorable report, the Town Board shall set a date for and conduct a public hearing for the purpose of considering planned unit development districting for the applicant's plan, in accordance with the procedures established by the Town Board for holding meetings, said public hearing to be conducted within 45 days of the receipt of the favorable report or the decision on appeal from an unfavorable report.
- (2) The Town Board shall refer the application to the Montgomery County Planning Board for its analysis and recommendations, and the Town Board shall also refer the application to such other agencies or consultants it deems appropriate. If County Planning Board review is not required, the Town Board may still refer the application for its review and recommendations.
- (3) Within 30 days following receipt of the report from the County Planning Board, the Town Board shall render its decision on the application.

C. Zoning for planned unit development. If the Town Board grants the planned unit development districting, the Zoning Map shall be so noted. The Town Board shall, in order to fully protect the public health, safety and welfare of the community, attach to its zoning resolution any additional conditions or requirements for the applicant to meet. Such requirements may include, but are not confined to, visual and acoustical screening, land use mixes, order of construction and/or occupancy, circulation systems, both vehicular and pedestrian, availability of sites within the area for necessary public services such as schools, firehouses, and libraries, protection of natural and/or historic sites and other physical or social demands.

D. Site plan and subdivision approvals. Subsequent to obtaining any rezoning under this article, individual project elements shall be subject to subdivision or site plan approvals, as applicable. The procedure for such approvals shall be as specified in Article VII, Site Plan Review, for site plan approvals. Due to the intent of PUDs and their flexible, yet cohesive, nature the subdivision and site plan approval process may take place simultaneously. Where procedures are in conflict, the more restrictive process will apply.

**§ 6.1-6 Changes in plan.**

If it becomes apparent in the subdivision and/or site plan review process that certain elements of the sketch plan, as approved by the Town Board, are not feasible and need significant modification, the applicant shall present solutions to the Planning Board to address the PUD subdivision and/or site plans, in accordance with all of the above procedures. The Planning Board shall then determine whether or not the modified plan is still in keeping with the intent of the local law creating the PUD. If a negative decision is reached, the site plan shall be considered disapproved. The applicant may then produce another site plan in accordance with the approved PUD plan. If an affirmative decision is reached, the Planning Board shall so notify the Town Board, stating all of the particulars of the matter and its reason for feeling the project should be continued as modified. Preliminary site plan approval may then be given only with the consent of the Town Board.

**§ 6.1-7 Development phasing.**

A. If the applicant wishes to develop the PUD in phases, or if the Town Board wishes to require that development be phased, the applicant may then submit only those phases for site plan review and/or

subdivision approval per the approved staging plan. Any plan anticipated to require more than 24 months to be completed shall be required to be phased, and a phasing plan must be developed. The Zoning Enforcement Officer may withhold the issuance of zoning or building permits if the approved phasing plan is not being followed. A phasing plan shall be submitted to the Town Board as part of the PUD application materials if development phasing is contemplated by the applicant. The Town Board shall have the authority to approve, with or without modifications and/ or conditions, or deny the phasing plan based on the following standards:

- (1) Each phase must be related to surrounding areas and available public facilities in such a manner that failure to proceed to subsequent phases will not adversely affect those areas or facilities.
- (2) Each phase when completed must be able to fully function on its own or in conjunction with prior phases without dependence on subsequent phases and each phase shall be fully completed prior to the final approval of subsequent phases.
- (3) The infrastructure, as installed, shall be sufficient to accommodate each planned phase of development.
- (4) Each phase shall have an appropriate ratio of the various uses proposed for the development.

B. Construction schedule. The applicant shall propose and the Town Board shall review and approve a construction schedule for the development of an approved PUD. Generally, commencement of development of the PUD, or the first phase if a phased PUD is approved, must occur within two years of the date that the final site plan of the PUD is approved. However, it is recognized that, depending on the scale and complexity of the development, consideration may be made with respect to the reasonable time necessary for the applicant to obtain construction financing, insurance and bonds, executing construction contracts, and other such aspects involved in a development project. Thus, the Town Board may modify the time period allowed for commencement of construction depending on the circumstances of each PUD.

#### **§ 6.1-8 Compliance required prior to construction.**

No building permits shall be issued for construction within a Planned Unit Development District until improvements are installed or financial security is posted in accordance with the procedures of § 6-1.9 and/or the applicable subdivision regulations. Construction may also not occur until such other requirements and conditions as established by the Town Board and Planning Board have been met as well as the requirements of Article XI Section 52.

#### **§ 6.1-9 Financial Security.**

The Town Board may require the posting of financial security in the form of a bond, letter of credit or other instrument in order to ensure that improvements are carried out as specified in the plans and approvals. The Boards shall follow the procedures in the Town of Florida Subdivision Regulations or New York State Town Law § 277(9) for such financial security.

#### **§ 6.1-10 Expiration of approval.**

Unless otherwise specified or extended by the Town Board, any PUD approval shall expire if the applicant fails to undertake the proposed action or project within one year from the filing date of such decision thereof. In the case of a phased project, the PUD approval shall expire if the applicant fails to undertake the designated phase within one year of the approved schedule. Applications for an

extension of PUD approval shall be made to the Town Board prior to the aforementioned date of expiration. The Town Board may grant an extension of up to one year.

**§ 6.1-11 Waiver.**

The Town Board, by recommendation of the Planning Board, or in its sole discretion, may waive any of the above requirements.

**§ 6.1-12 Filing of decisions.**

All Planning Board decisions shall be filed with the Town Board and Town Clerk, and the Town Board shall file all decisions with the Planning Board and Town Clerk. The applicant shall receive copies of all decisions.

**§ 6.1-13 Fees.**

A. Fees for planned unit developments shall be set in accordance with a schedule of fees as adopted by the Town Board pursuant to Article XIV Section 66.

B. In addition to the fee listed on the schedule of fees, the Town may charge a fee to developers of projects requiring legal and technical review, provided that the fee charged reflects the actual cost of legal and technical assistance to the Planning Board and the Town Board.

## **ARTICLE V - USE REGULATIONS**

The principal permitted uses of each zoning district are permitted as of right. All special permitted uses require both special permit review and site plan review. Uses not listed for a specific zoning district are prohibited from that district and would therefore require a use variance.

### **SECTION 7 - R-1 Residential District**

In the R-1 Residential District no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:

(A) Principal Permitted Uses:

1. One Family Dwelling
2. Community Park or Playground
3. Accessory Use and Building
4. Home Occupation

(B) Uses Permitted as a Special Permit by the Planning Board:

1. Nursing, Convalescent or Home for the Aged
2. Church
3. Parish House, Convent
4. Launderette
5. Retail Store
6. Townhouses
7. Two Family Dwelling
8. Mufti-Family Dwelling
9. Bed and Breakfast Establishment
10. Public or Parochial School or College
11. Public Building
12. Golf Course or Country Club
13. Farm and Accessory Use or Building



**SECTION 8 - R-M Mobile Home Residential District**

In the R-M Mobile Home Residential District no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:

- (A) Principal Permitted Uses:
  - 1. One Family Dwelling
  - 2. Mobile Home
  - 3. Accessory Use or Building
  - 4. Community Park or Playground
- (B) Uses Permitted as a Special Permit by the Planning Board:
  - 1. Launderette
  - 2. Retail Store
  - 3. Mobile Home Park
  - 4. Multiple Family Dwelling
  - 5. Bed and Breakfast Establishment
  - 6. Farm and Accessory Buildings or Uses
  - 7. Two Family Dwelling

**SECTION 9 - A-Agricultural District**

In the A Agricultural District no building or premises shall be used and no building shall be erected or altered except for one of more of the following uses:

- (A) Principal Permitted Uses:
  - 1. Farm and Accessory Buildings and Uses
  - 2. Picnic Grove, Fish or Game Club (private)
  - 3. Nursery
  - 4. One family Dwelling

5. Community Park or Playground
6. Home Occupation
7. Mobile home as part of a farm operation
8. Accessory use and building

(B) Uses Permitted as a Special Permit by the Planning Board:

1. Commercial Recreation
2. Bed and Breakfast Establishment
3. Golf Course or Country Club
4. Nursing, Convalescent or Home for the Aged
5. Personal Wireless Service Facility
6. Public Utility Facility
7. Farm Products Plant
8. Radio, TV Transmitter or Receiving Tower w/ building
9. Radio, TV Transmitter or Receiving Tower w/o building
10. Boarding or Rooming House
11. Church
12. Parish House or Convent
13. Animal/Veterinary hospital
14. Public or Parochial School or College
15. Two Family Dwelling
16. Adult Oriented Business

**SECTION 10 - C-1 Commercial District**

In the C-1 Commercial District no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:

(A) Principal Permitted Uses:

1. Bed and Breakfast Establishment
2. Personal Service Shop
3. Retail Store
4. Museum
5. Custom Work Shop
6. Radio, Television or Household Appliance Sales or Service
7. Funeral Home
8. Antique Shop
9. Animal/Veterinary Hospital
10. Feed, Lumber, Seed or Fertilizer Building
11. Carwash
12. Fire Station or Municipal Building
13. Cabinet, Electrical, Heating, Plumbing or Air Conditioner Shop
14. Mobile Home as part of a Farm Operation
15. Community Park or Playground
16. Retail Bakery
17. Historic Building or Site
18. Laundry or Dry Cleaning Plant
19. Farm and Accessory Use or Building
20. One Family Dwelling
21. Accessory Use or Building
22. Home Occupation

(B) Uses Permitted as a Special Permit by the Planning Board:

1. Gasoline Station
2. Professional Office, Studio
3. Bank
4. Public Utility Facility
5. Hotel
6. Public Garage
7. Restaurant
8. Fuel Sales and Storage
9. Automobile, Boat, Farm Implement or Mobile Home Sales or Rental
10. Indoor Storage of non-liquid, non-gaseous fuel
11. Bowling Alley
12. Multi Family Dwelling
13. Two Family Dwelling
14. Adult Oriented Business
15. Tavern

**SECTION 10.1 - C-2 Commercial District**

In the C-2 Commercial District no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:

(A) Principal Permitted Uses:

1. Bed and Breakfast Establishment
2. Personal Service Shop
3. Retail Store
4. Museum
5. Custom Work Shop
6. Radio, Television or Household Appliance Sales or Service
7. Funeral Home
8. Antique Shop
9. Animal/Veterinary Hospital
10. Feed, Lumber, Seed or Fertilizer Building
11. Carwash
12. Fire Station or Municipal Building
13. Cabinet, Electrical, Heating, Plumbing or Air Conditioner Shop
14. Community Park or Playground
15. Historic Building or Site
16. Home Occupation
17. Professional Office, Studio
18. Bank
19. Hotel
20. Restaurant
21. Accessory Use or Building

(B) Uses Permitted as a Special Permit by the Planning Board:

1. Gasoline Station/Fuel Sales and Storage
2. Laundry/Dry Cleaning Plant
3. Public Utility Facility w/o Building
4. Public Utility Facility With Building
5. Public Garage
6. Automobile, Boat, Farm Implement or Mobile Home Sales or Rental
7. Indoor Storage of non-liquid, non-gaseous fuel
8. Wholesale Storage/Warehouse
9. Manufacture or Assembly of Electronic Devices or Instruments
10. Printing or Publishing Plant
11. Tool, die, pattern, machine shop
12. Manufacture or processing of dairy or food products
13. Research & Development Center
14. Cold Storage Plant
15. Bowling Alley
16. Tavern

**SECTION 11 - IBP-Industrial Business Park**

In the IBP Industrial Business Park District no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:

(A) Principal Permitted Uses:

1. Wholesale Storage or Warehouse
2. Light Assembly Plant
3. Manufacturing or assembly of electronic devices or instruments
4. Printing or publishing plant
5. Tool, die, pattern or machine shop
6. Manufacture or processing dairy or other food products
7. Distribution Center
8. Research and development center
9. Transportation services, including automobile and truck rentals and public garage
10. Professional Offices
11. Cold Storage Plant
12. Farm and accessory use or building
13. Customary accessory use or building
14. Manufacturing or processing of dairy or other food products

(B) Uses Permitted as Special Permit by the Planning Board:

1. Manufacture of textile products or leather goods
2. Manufacture or fabrication of metal, concrete, stone, plastic paint, fiber or wood products
3. Truck Terminal
4. Bulk Storage of inflammable liquids
5. Public Utility Facility

## **SECTION 12 - N-P-Natural Products District**

In any N-P Natural Products District no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:

(A) Principal Permitted Uses:

1. Earth, sand, gravel or mineral excavation
2. Bituminous concrete mixing plant
3. Ready-mix concrete plant
4. Concrete products manufacture, including blocks, staves, pipe beams and structure, and construction equipment
5. Agricultural lime manufacture
6. Inorganic fertilizer manufacture
7. Accessory use or building
8. Farm and accessory building
9. Rock quarry operation

(B) Special Permitted Uses:

1. Advertising Sign



**SECTION 13 - H-Historic District**

In any H Historic District no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:

(A) Principal Permitted Uses:

1. One family Dwelling
2. Two Family Dwelling
3. Community Park or Playground
4. Farm and Accessory use or building
5. Fire Station, Municipal building
6. Historic building or site
7. Accessory uses or building

(B) Uses Permitted as a Special Permit by the Planning Board:

1. Public or Parochial School or College
2. Hotel
3. Church, Parish House or Convent
4. Marina
5. Gasoline Station
6. Multi-Family Dwelling
7. Bed and Breakfast Establishment
8. Retail Store
9. Personal Service Shop
10. Bank
11. Custom Work Shop
12. Museum
13. Launderette

14. Restaurant
15. General Store
16. Professional Office, Studio
17. Antique Store
18. Home Occupation

## **ARTICLE VI - AREA AND HEIGHT REGULATIONS LOTS, YARD AND BUILDINGS**

### **SECTION 14 -Regulations in Schedule A**

[HISTORY: Revised by the Florida Town Board January 20, 2014]

Regulations governing lot area and lot width; front, side and rear yards; building coverage and building height are specified in Schedule A and in the additional regulations of Article VI, and supplementary regulations of Article VII. Schedule A accompanies, and is hereby made a part of this ordinance. The most current Schedule A is available at the office of the Town Clerk.

### **SECTION 15 – Walls, Fences and Hedges**

[HISTORY: Adopted by the Florida Town Board January 20, 2014]

#### **A. Location and Height**

1. Fences shall be permitted anywhere on a residential lot or parcel of land, provided that the height thereof does not exceed four feet in a front yard or six feet in a side or rear yard, measured from ground level on the interior side of the fence to the uppermost part thereof.
2. Exceptions. The Town of Florida Building Department may permit the construction of a fence in excess of the height limitations imposed by this subsection if it determines that there is a practical need therefore and that it will not be detrimental to the appearance of adjoining properties and/or the neighborhood. Application to the Town of Florida Building Department to exceed the height limitation shall be made in accordance with rules and regulations prescribed in this code.
3. Location of any and all private property lines shall be determined by a surveyor licensed to practice in the State of New York, at the expense of the property owner retaining such services.

#### **B. Aesthetics**

The more aesthetically attractive side of the fence shall face abutting properties. The side which is more aesthetically attractive shall be the side which is more pleasing in appearance because of finish, painting, woodwork or for whatever other reason.

#### **C. Barbed-wire and Electrically Charged Fences**

1. Permit required. No barbed-wire fences or electrically charged fences shall be permitted except by authorization and permit issued by the Town of Florida Building Department. Such permit shall not be issued except for the following:

- a. Fences situated in business and industrial zoning districts may be topped with barbed wire, provided that the bottommost strand of barbed wire is at least six (6) feet above ground level.
  - b. Electrically charged fences may be permitted on Agriculturally-zoned land for the purpose of providing an enclosure/barrier to contain the roaming of animals.
2. Standards. The Town of Florida Building Department shall issue permit upon written application in form prescribed by it if it determines that there is a practical need for such a fence and that the existence of the fence in the proposed location is not inconsistent with the character of the neighborhood and does not pose a threat of injury to persons lawfully in the vicinity of such fence. Fence shall be clearly placarded to identify electrically charged fencing.

D. Yard Requirements

The yard requirements of this ordinance shall not prohibit any necessary retaining walls nor any fence, wall or hedge permitted by Town Ordinance, provided that in any residence, such fence, wall or hedge shall comply with the following provisions:

1. A fence, wall or hedge shall be no closer than two (2) feet from the front lot line, and shall provide necessary visibility on corner lots.
2. A fence, wall or hedge shall be no closer than two (2) feet from any side or rear yard property line, providing a strip of land on each side of the property line for abutting property owners to maintain their fence without trespassing on the lands of the abutting property owner.

**SECTION 16 - Height Regulations**

- A. Chimneys, Spires, etc.  
The height limitations of this ordinance shall not apply to belfries, church spires, cupolas, and domes which are not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks or other storage tanks/silos and necessary mechanical appurtenances usually carried above the roof level; not to flag poles, monuments, transmission towers and cables, radio and television antennae or towers and similar structures. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose for which they are intended, and are subject to planning board review and approval. No advertising device of any kind whatsoever shall be inscribed upon or attached to that part of any chimney, tower, tank or other structure which extends above the roof limitations.
- B. On Through Lots  
On through lots 120 feet or less in depth, the height of a building may be measured from the grade of either street. On through lots more than 120 feet deep, the height regulations and basis of height measurement for the street

permitting the greater height shall apply to a depth of not more than 120 feet from that street.

## **ARTICLE VII - SITE PLAN APPROVAL AND SPECIAL PERMITS**

### **SECTION 17 - Purpose and Authorization**

The purpose of site plan approval and special permit approval is to ensure compliance with the objectives of this ordinance, thereby promoting the public health, safety and general welfare.

This section of the Florida Zoning Ordinance is enacted under the authority of Section 274-a of the Town Law of the State of New York to protect the health, safety, convenience and general welfare of the inhabitants of the Town. This Section regulates the development of structures and sites in a manner which considers the following concerns and, where necessary, requires modification of development proposals to eliminate or minimize potential problems and nuisances.

The power to approve, approve with conditions, or deny site plans and special permits as required by this article is rested in the planning board. All site plan and special permit applications shall comply with the adopted, current requirements and procedures of the planning board.

### **SECTION 18 - Developments Requiring Site Plan Review**

All development projects other than Single Family Residential in all Districts and Agricultural in the Agricultural District require site plan review. In addition all special permits require site plan review. Site plan review and special permit review should be conducted jointly by the planning board.

#### **SECTION 18a - Concept Site Development Plan Requirements**

- A. General requirements for concept site plan review and acceptance.
  - 1. Prior to applying for final site development plan review and approval from the Planning Board for a major site development proposal, an applicant shall first submit a concept site development plan and application to the Planning Board for its review and acceptance.
  - 2. For purposes of this section, the term "major site development proposal" shall include any site plan proposal involving a project having more than one separate commercial or other proposed business related uses on the subject premises.
  - 3. The concept site development plan shall present a flexible design concept that may be readily changed by the Planning Board as part of its review process.
- B. Special requirements for a concept site development plan submission shall include, but not be limited to, the following:
  - 1. Submission of a concept site development plan application on forms prescribed therefore, together with payment of the required fee therefore as established by the Town Board.

2. A narrative description of the proposed project, addressing its scope of operation, purpose, justification and impact on the immediate area of influence and the town in general (schools, traffic generation, population, utilities, aesthetics and land use compatibility) and including the following:
  - a. The address of the site.
  - b. The name of the applicant(s).
  - c. Site zoning.
  - d. The name of the proposed tenants/businesses, if known.
  - e. A description of existing site and use.
  - f. A description of intended site development and use.
  - g. Anticipated impacts on services (i.e., traffic, sewer, water, fire & police) with projected quantities.
  - h. The impact on adjoining property; noise, visual, drainage, other.
  - i. Proposed gross floor area.
  - j. Proposed number of parking spaces.
  - k. The number of employees.
  - l. Site coverage statistics (i.e. building area and other improvement coverage percentages).
  - m. Hours of operation.
  - n. Storage and disposal method of chemicals used (solvents, soaps, etc.)
  - o. Impact on town communications system of any proposed communications devices (e.g., microwave transmitters).
3. Photographs of the site.
4. Completed environmental assessment form.
5. Site analysis diagram to include the following features:
  - a. Boundary survey map of property to be subdivided at a scale of one inch equals 10 feet, one inch equals 20 feet, one inch equals 30 feet or one inch equals 40 feet. Sheet size shall be twenty-two by thirty-four (22x34) inches or thirty-four by forty-four (34x44) inches.

- b. Existing topography at contour intervals of two feet or less, extending 50 feet from the site. Where the boundary of a zoning district which permits residences exists within 100 feet of the site, topography shall be extended to a distance of 100 feet in the direction of the district boundary.
  - c. Existing zoning district, with district boundaries within 300 feet of the site.
  - d. The names of adjoining property owners.
  - e. Location and description of existing vegetation (species, size, condition and value), watercourses, wetlands, floodplains and other natural features.
  - f. Existing streets, utilities, structures, other man-made features, on or within 50 feet of the site.
  - g. Soil analysis describing soil types, surface and subsurface rock and groundwater conditions.
  - h. Identification of visual features such as smokestacks, borrow pits, overhead utility lines, junkyards, refuse areas and billboards (if none, so note).
  - i. Identification of sources of smoke, noise, odors or other emissions (if none, so note).
  - j. Small-scale location map at a scale of one inch equals 2,000 feet as inset; location map shall be oriented the same as the site analysis.
  - k. Identification, by both verbal description and graphic depiction, of adjacent land uses.
  - l. Where the site is a component or phase of a larger development, an overall plan of the larger development must be submitted.
6. Concept site development plan on site analysis survey base map, including items from Section 18a B(5) through (f) and (j) and (k) above, and the following added information:
- a. Proposed buildings, other improvements (with building and setback dimensions).
  - b. Proposed utilities, including lateral locations, sizes and connection points.
  - c. Proposed vegetation and landscaping.
  - d. Proposed parking, circulation, storage, service and display areas.
  - e. The number of parking spaces.



- f. Access.
    - g. Proposed drainage concept.
    - h. Existing/proposed easements,
    - i. Site coverage statistics.
    - j. Floor plan.
    - k. Analysis of parking requirement.
    - l. Architectural plans, including building elevations from the front, rear and side, materials and colors to be used on exterior finishes and any other features the Planning Board may reasonably request.
    - m. Existing limits of the Town Water District or a note stating that the site is inside, partially inside or outside the district.
  - 7. Code Enforcement Officer zoning verification determination, when required.
  - 8. Such additional reports, maps, plans or materials as the Planning Board may reasonably request and deem necessary to make the determinations required by the New York State Environmental Quality Review Act and this chapter.
- C. Duration of Concept Site Development Plan Approval

Any concept site development plan approval shall remain effective for a period of one year from the date of the approval of such plan by the Town Planning Board. Thereafter, applicants must reapply for any extension of such approvals and such application shall be subject to the same requirements as set forth in the above section regarding concept site development plan requirements. In addition, applicants shall be required to pay an additional application fee equal to the amount of the final site plan review application fee of the Town as set forth in the Town's fee schedules.

## **SECTION 19 - Procedure**

- A. Prior to the submission of a formal site plan, a pre-submission conference may be held wherein the applicant shall meet in person with the Zoning Enforcement Officer to discuss the proposed site plan so that the necessary subsequent steps may be undertaken with a clear understanding of the Town's requirements in matters relating to the development of the site.
- B. Within six (6) months following the pre-submission conference, five (5) copies of the site plan and any related information shall be submitted to the Zoning Enforcement Officer, accompanied by a fee in accordance with the schedule of fees of the Town of Florida, payable to the Town Clerk. If the application is not submitted within this six-month period, another pre-submission conference may be required. An Environmental Assessment Form, as required by the State

Environmental Quality Review Act, shall also be submitted with the application.

- C. The Zoning Enforcement Officer shall certify on each site plan or amendment whether or not the application is complete in accordance with the requirements of this section, and whether the plan meets the requirements of all zoning ordinance provisions other than those of this section, such as setbacks, number of parking spaces, etc. The Zoning Enforcement Officer shall act to certify the application or return it to the applicant for completion or revision within ten (10) days of submission by the applicant.
- D. Following certification of a complete application, the Zoning Enforcement Officer shall forward the application to the Planning Board no later than ten (10) days prior to its next meeting.
- E. The Planning Board may, at its discretion, hold a public hearing on the application. Said hearing shall be held within sixty-two (62) days of submission to the Planning Board of said complete application. The Planning Board shall give notice of the hearing in a newspaper of general circulation in the Town at least ten (10) days prior to the hearing. In addition, the applicant shall give notice in writing by certified mail, return receipt required to all property owners of the land immediately adjacent to, extending five hundred feet (500') there from, and directly opposite thereto, extending five hundred feet (500') from the street frontage of the land in said application. The applicant shall mail these notices at least ten (10) days in advance of the hearing and furnish the Planning Board with such Post Office receipts as have been received as of the date of such hearing.
- F. The Planning Board shall make a determination of significance of the proposed site plan according to SEQR. The time limitations of paragraph H of this section shall not apply until the conclusion of the SEQR process.
- G. Whenever any Site Plan involved real property in an area described in Section 239-m of the General Municipal Law, said Site Plan shall be referred to the County Planning Board, which Board shall report its recommendations to the Town Planning Board. Failure of the County Planning Board to report within thirty (30) days may be construed to be approval.

The concurring vote a majority plus one of the Town Planning Board shall be necessary to override County Planning Board recommendations of approval with modification or disapproval. In the event that the County Planning Board recommends modifications or disapproval of a referred matter and the Town Planning Board acts to the contrary, the Town Planning Board shall file a report of its final action with the County Planning Board within seven (7) days after final action.

- H. The Planning Board shall, within 62 days of the public hearing, if one is held, or within 62 days of the receipt of a complete site plan application either:
  - 1. Approve the site plan if the Board finds that the plan meets the requirements of this ordinance and any other applicable rules and regulations; or

2. Condition approval of the site plan upon the applicant making certain changes or modifications to the plan, said conditions to be set forth in writing by the Board; or
3. Disapprove the site plan, the reasons for such action to be set forth in writing by the Board.

Failure to act by the Planning Board within the required time shall be deemed approval. Should the Planning Board need an additional amount of time to consider the application, then they may do so with the consent of the applicant. Said agreement shall be recorded in the minutes.

- I. Review of amendments to an approved site plan shall be acted upon in the same manner as the review of an original plan.

## **SECTION 20 - Enforcement**

- A. The Planning Board may require the posting of a bond or other similar performance guarantee to ensure compliance with the plan and stated conditions of approval. The Zoning Enforcement Officer may suspend any permit or license when work is not performed as required.
- B. Any Special Permit issued under this section shall lapse within one year if a substantial use thereof has not commenced, except for good cause. The time required to pursue and await determination of a judicial appeal pursuant to Chapter 274-b of the Town Law shall be included within the one-year time limit.
- C. The Planning Board may adopt additional detailed design guidelines and performance standards, as it deems necessary by majority vote of the Planning Board, after conducting a public hearing to receive comments on any proposed revisions. Such hearing shall be advertised once in a newspaper of general local circulation, at least seven (7) days prior to the hearing. Such standards and guidelines shall not become effective until adopted by the Town Board following a public hearing.
- D. No topsoil, tree, shrubs or other vegetation shall be removed from the site until a site plan has been approved for the property in question.

## **SECTION 21 - Submission Requirements**

- A. The site plan shall include the following data, details and supporting plans. The number of pages submitted will depend on the proposal's size and complexity. All of the requirements must be met in each plan except in accordance with Section 21, B, below.
- B. The Planning Board may waive any of the requirements of Section 21, C or D or parts thereof, prior to the submission of a formal site plan, when such requirements are not material to the project under review.

- C. Site plans shall be prepared by a surveyor, registered professional engineer, architect, or landscape architect at a scale of one inch (1") equals twenty feet (20') or less, on standard 24" x 36" sheets, with continuation on 8 1/2 x 11" sheets as necessary for written information.
- D. Items required for submission include:
1. Name of the project, boundaries, location maps showing site's location in the town, date, north arrow and scale of the plan. This title block shall be located in the lower right hand corner of the Site Plan.
  2. Name and address of the owner of record, developer, and seal of the engineer, architect, surveyor or landscape architect.
  3. Name and address of all owners of record of abutting parcels and those within five hundred feet (500') of the property line.
  4. All existing lot lines, easements, and rights-of-way. Include areas in acres or square feet, abutting land uses, and the location and size of structures within five hundred feet (500') of the site.
  5. The location and use of all existing and proposed buildings and structures within the development. Include all dimensions of height and floor area, and shown all exterior entrances, and all anticipated future additional and alterations.
  6. The location of all present and proposed public and private way, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping and walls. Location, type and screening details for all waste disposal containers shall also be shown.
  7. The location, height, intensity and bulk type (e.g. fluorescent, sodium incandescent) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
  8. The location, height, size, materials and design of all proposed signage.
  9. The location of all present and proposed utility systems including:
    - a. Sewage or septic systems
    - b. Water supply system
    - c. Telephone, cable and electrical systems
    - d. Storm drainage system including existing and proposed drainage lines, culverts, catch basins, headwalls, end walls, hydrants, manholes, and drainage swales

The Planning Board may also require soil logs, soil profile analysis (deep

hole test pits), percolation tests and storm water run-off calculations for large developments or developments in environmentally sensitive areas.

10. Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable. There shall be pre and post drainage calculations for the site done by a certified engineer. From this the engineer must show how there will be no increase in runoff from the site. The use of ponds, dry wells, etc. shall be used, but all sites shall have zero increase in runoff so as not to disturb neighboring properties.
11. Existing and proposed topography at five foot (5') contour intervals. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the 100-year floodplain, the area will be shown, and base flood elevations given. Indicate areas within site where ground removal or filling is required, and give its approximate volume in cubic yards.
12. A landscape plan showing all existing natural land features, trees, forest cover and water sources, and all proposed changes to these features, including size and type of plant material, and erosion control measure. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains, and drainage retention areas.
13. Zoning district boundaries within two hundred feet (200') of the site's perimeter shall be drawn and identified on the plan.
14. Traffic flow patterns within the site, entrances and exits, loading and unloading area, curb cuts on the site and within two hundred feet (200') of the site.

The Planning Board may require a detailed traffic study for large developments or for those in heavy traffic areas to include:

- a. The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic level;
  - b. The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site;
  - c. The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels as well as road capacity levels shall also be given.
15. For new construction or alterations to any existing building, a table containing the following information must be included:
    - a. Area of building to be used for a particular use such as retail operation, office, storage, etc.
    - b. Maximum number of employees;

- c. Maximum seating capacity , where applicable;
    - d. Number of parking spaces existing and required for the intended use
    - e. Dimensions, materials, and designs of all structures
  - 16. Elevation plans at a scale of 1/4" = 1' for all exterior facades of the proposed structures) and/or existing facades, plus addition(s) showing design features and indicating the type and color of materials to be used.
- E. An Environmental Assessment Form (either a short or long form, depending upon the nature of the proposal) shall be submitted with the site plan to insure compliance with the New York State Environmental Quality Review Act (6 NYCRR 617), to identify the potential environmental, social, and economic impacts of the project.

## **SECTION 22 - Standards for Review**

The Planning Board shall review the site plan and supporting documents, taking into consideration the reasonable fulfillment of the objectives listed below. Pursuant to Section 20, Paragraph C, detailed design guidelines and performance standards may be adopted by the Planning Board to guide decisions with respect to these objectives, and to help ensure consistency in the review of all applications.

A. Legal

Conformance with the provisions of the Local Laws and Ordinances of the Town, the Town Law of New York State, and all applicable rules and regulations of State and Federal agencies.

B. Traffic

Convenience and safety of both vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties.

C. Parking

Provision for off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate parking, adequate lighting, and internal traffic.

D. Public Services

Reasonable demands placed on public services and infrastructure.

E. Pollution Control

Adequacy of methods of sewage and refuse disposal and the protection from

pollution of both surface waters and groundwater. This includes minimizing soil erosion both during and after construction.

F. Nuisances

Protection of abutting properties and town amenities from any undue disturbances caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare, storm water runoff, etc.

G. Existing Vegetation

Minimize the area over which existing vegetation is to be removed. Where tree removal is required, special attention shall be given to planting of replacement trees.

H. Amenities

The applicant's efforts to integrate the proposed development into existing landscape through design features, such as vegetative buffers, roadside plantings, and the retention of open space and agricultural land.

I. Town Character

The building setbacks, area and location of parking, architectural compatibility, signage, and landscaping of the development, and how these features harmonize with the surrounding landscape and the natural landscape.

## **SECTION 23 - Consultant Review**

In its review, the Planning Board may consult with the Town Building Inspector, Fire Commissioners, Highway Superintendent and other local and county officials, and its design private consultants, in addition to representatives of federal and state agencies including, but not limited to, the Soil Conservation Service, the State Department of Transportation, the State Department of Environmental Conservation, and the NYS Department of Health. If a consultant is retained by the board, the developer shall agree to pay his/her fees. An estimate of his/her fees shall be provided at the beginning of the project. The developer will be required to pay one-third at this time, another third at the time of the public hearing and a final third before a decision is rendered by the Board.

## **SECTION 24 - Additional Requirements**

The Planning Board may require such additional provisions and conditions that appear necessary for advancement of the public environment. Such shall include but shall not be limited to the following:

- A. REIMBURSABLE COSTS: Reasonable costs incurred by the Planning Board for private consultation fees or other extra ordinary expense in connection with the review of a proposed site plan shall be charged to the applicant. Such

reimbursable costs shall be in addition to the fee required in the Town Schedule of Fees for site plan review.

- B. **PERFORMANCE GUARANTEE:** No Certificate of Occupancy shall be issued until all improvements shown on the final site plan are installed or a performance guarantee, a letter of credit or a certificate of deposit has been posted for improvements not yet completed. Such performance guarantee, letter of credit or certificate of deposit shall be posted in accordance with procedures specified within Section 277 of the Town Law relating to subdivisions. Other requirements relating to performance guarantees may be established from time to time by the Town Board. The amount and sufficiency of such performance guarantee shall be established by the Planning Board after consultation with the Building Inspector, Attorney(s) for the Town and the Planning Board's designated consultants, or other competent persons.
- C. **INSPECTION OF IMPROVEMENTS:** The Zoning Enforcement Office shall be responsible for the overall inspection of site improvements, including coordination with the Town's private consultants, as may be appropriate on multi-family residential, commercial and industrial projects.

## **SECTION 25 - Appeals**

**APPEALS:** Any person or persons, jointly or severally aggrieved by any decision of the planning board concerning review of a site plan may bring a proceeding to review in a manner provided by Article Seventy-Eight of the Civil Practice Laws and Rules in a court of record.

## **SECTION 26 - Special Permits**

On application and after public notice and hearing by the Planning Board, said board may authorize, by resolution, the issuance of a special permit only for those uses in a district where this ordinance requires such a permit. In authorizing the issuance of a special permit, the Planning Board shall take into consideration the public health, safety, and general welfare and shall prescribe appropriate conditions and safeguard to insure the accomplishment of the following objectives, unless otherwise provided all special permits shall be valid for period as determined by the Planning Board.

### **OBJECTIVES:**

1. That all proposed structures, equipment, or material shall be readily accessible for fire and police protection.
2. That the proposed use is of such location, size, and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.
3. That, in addition to the above, in the case of any use located in, or directly adjacent to a residential district:
  - a. The location size of such use, the nature and intensity of operations



involved in or conducted in connection therewith, its site layout and its relation to access street shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or incongruous with, the said residential district or conflict with the normal traffic or the neighborhood and use of adjacent land and buildings or diminish the value thereof.

- b. The location and height of buildings and structures, the location, nature, and height of walls and fences, and the nature and extent of screening and landscaping on the site shall be such that the use will not hinder or discourage the appropriate development.

B. PROCEDURE:

Since all special permits require site plan review, the procedure for a special permit shall be the same as specified for a site plan review, Section 17-25 except that a public hearing is mandatory. Site plan and special permit review should be conducted jointly to save time, effort, and repetition of information.

C. CONDITIONS AND SAFEGUARDS:

In authorizing the issuance of a special permit it shall be the duty of the Planning Board to attach such conditions and safeguards as may be required in order that the results of its action may, to the maximum extent possible, further the general objectives of this ordinance. The Planning Board may require that special permitted uses be periodically renewed. Such renewal shall be granted allowing due public notice and hearings, and may be withheld only upon determination that such conditions as may have been prescribed by the Board in conjunction with the issuance of the original permit have not been, or are no longer being complied with.

In such cases, a period of 60 days will be granted the applicant for full compliance prior to the revoking of the said permit. Any use for which a special permit may be granted shall be deemed to be a conforming use in the district in which such use is located providing that:

- a. The provision in this ordinance under which such exception was issued is still in effect.
- b. Such exception was issued in conformity with the provisions of this ordinance.
- c. Such use shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted.

D. APPEALS:

Any person or personal, jointly or severally aggrieved by any decision of the Planning Board concerning review of a special permit may bring a proceeding to review in a manner provided by Article Seventy-Eight of the Civil Practice Laws and rules in a court of record.

**SECTION 27 – Reserved**

## **ARTICLE VIII - SUPPLEMENTARY REGULATIONS**

### **SECTION 28 - Access to Improved Street**

In any district, a lot to be used for building purposes shall have direct frontage on an improved street, or highway, or on a street in a subdivision plot approved by the Planning Board.

### **SECTION 29 - Lots in Two Districts**

Where a district boundary line divides a lot in one ownership at the time of adoption of said district line, the regulation for either district may be used up to 100 feet into the other district provided the lot has the minimum required frontage on a street.

### **SECTION 30 - Drive-In Food Services**

Any drive-in food service building shall be located 60 feet or more from any public right-of-way. Such businesses, where persons are served in automobiles, shall not be closer than 200 feet to a Residential District. Arrangements of ingress and egress of vehicles, lights, fences and screening shall be approved by the Planning Board in such a way as not to interfere with uses in the Residential District.

### **SECTION 31 - Accessory Building: Number, Height and Location**

1. Number: On any lot intended or used primarily for residential purposes, an accessory building such as private garage for use in connection with the principal dwelling is permitted.
2. Height: Maximum height of accessory buildings shall be 25 feet, except that there shall be no height limitation on barns, silos and other farm structures.
3. Location: Accessory private garage buildings in Residential Districts which are not attached to a principal building may be erected within the rear yard accordance with the following requirements:
  - a. Rear Yard: Five feet from side or rear property line, except when abutting an alley, then 10 feet,
  - b. Side Yard: Street side of corner lot - same as for principal building.
  - c. Not closer to a principal or accessory building than 10 feet
  - d. In any district, accessory buildings other than private garages shall comply with front and side yard requirements for the principal building to which they are accessory and shall be not closer to any rear property line than 10 feet.

4. Attached Accessory Building in Residence District: When an accessory building is attached to the principal building, it shall comply in all respects with the requirements of this ordinance applicable to the principal building.
5. Maximum lot coverage is to include all principal and accessory structures

### **SECTION 32 - Mineral Extraction**

In the N-P-Natural Products district, the mining of more than one thousand tons or seven hundred fifty cubic yards, whichever is less, of minerals from the earth within twelve successive calendar months shall require a New York State Department of Environmental Conservation (DEC) permit and approval. Local review by the planning board is not authorized. The Town Board will be sent a copy of the applicant's proposal and may make suggestions on ingress, egress and hours of operation, but final decisions are that of the DEC.

In the R-1-Residential, R-M-Mobile Home Residential, A-Agricultural, C-1-Commercial, IBP-Industrial Business Park, and H-Historic Districts the mining of more than five hundred tons or three hundred seventy five cubic yards, whichever is less, of minerals from the earth within any twelve successive calendar months is prohibited.

### **SECTION 33 - Junkyards**

All junkyards, wrecking yards, or places for the collection of recoverable materials or inoperable equipment shall conform to the following requirements:

- A. All such yards, enclosures or areas used for such collection or storage shall be enclosed by a opaque fence, designed to obstruct view from outside, which is at least eight feet in height and entirely surrounds such yard or area.
- B. Materials shall not be collected or stored on a hillside of greater than 10 percent slope, on a floodplain, or within 100 feet of any stream bed.
- C. Materials stored and collected shall not be stacked or piled to a height greater than the closest eight-foot fence.
- D. Operation of junkyard is conditional upon the granting of an annual operating license from the Town Board in accordance with Section 136 of the General Municipal Law and this Section of this Ordinance.
- E. The outdoor storage of two or more unregistered motor vehicles no longer intended or in condition for legal use, or major portions of such vehicles and/or a comparable quantity of inoperable machines, implements, or appliances, or two or more unregistered travel trailers or camping vehicles shall require licensing as a junkyard. The outdoor storage of one or more inhabitable mobile homes shall require licensing as a junkyard unless structures are in use for permitted nonresidential or accessory auxiliary uses.
- F. Inoperable agricultural equipment or machinery stored on an operating farm for further restoration or for use as a source of spare parts for other equipment in

use on the farm shall not be subject to the above provisions of this Section.

## **SECTION 34 - Signs**

Signs shall comply with the following regulations:

1. In R-1 and R-M Residential and H Historic, non-illuminated and non-advertising signs are permitted as follows:
  - a. One business sign, not to exceed an aggregate of twenty-four (24) square feet of sign area, showing the name or permitted home occupation of the occupant of the premises.
  - b. One sign not to exceed an aggregate of twenty-four (24) square feet of sign area, during and pertaining to the sale, lease or rental, of the land or building.
  - c. One temporary sign not to exceed an aggregate of twenty-four (24) square feet of sign area, during and pertaining to construction, repairs, or alterations to the property.
  - d. Institutional or religious announcement sign, not to exceed sixty-four (64) aggregate feet in area.
  - e. The above signs can be located in any required yard provided that the sign is setback at least fifteen (15) feet from the road right-of-way.
  - f. Two farm product signs, each not exceeding sixty-four (64) aggregate feet in area, may be displayed on the property, but only when such products are on sale.
2. In A-Agricultural C-1Commercial, IBP-Industrial Business Park and NP-Natural Products Districts, non-flashing, non-advertising signs are permitted as follows:
  - a. A business sign or signs directing attention to a business or profession conducted, or a commodity, service or entertainment offered or sold on the premises shall be permitted. Such sign can be two sided with a maximum of thirty-two (32) square feet on each side. The size of the sign may increase if the road frontage, on which the sign is displayed, is over five hundred (500) feet. For each additional five hundred (500) feet of road frontage, the sign may increase twenty-five (25) square feet on each side with a maximum total of one hundred (100) square feet on each side. No such sign shall project into or over the public right-of-way. In the case of a retail store or other group of related buildings, in addition to the general sign, each individual unit may display an identification sign affixed flat against the building. Said sign may be a maximum of ten (10) percent of the vertical square feet of the side of the building it is attached to.
  - b. If illuminated, the source of light shall not be visible.
  - c. Non-illuminated real estate signs, not over sixteen (16) square feet in

aggregate area, advertising the sale, rental or lease of the premises on which they are located are permitted, but not in any required yard.

3. In the N-P-Natural Products District advertising signs are permitted as follows:
  - a. Such sign shall be a maximum of 250 square feet.
  - b. Only one advertising sign per lot is allowed.
  - c. If illuminated, the source of light shall not be visible.

## **SECTION 35 - Permanent Building Foundations**

All dwellings, including One-family, Two-Family, Multiple-Family, Board or Rooming Houses, Mobile Homes, and Modular homes shall be placed upon a permanent foundation, except for mobile homes located within a mobile home court in a R-M Mobile Home District and temporary mobile homes permitted by special permit by the Planning Board.

### **SECTION 35.1 Off-Premises Signage**

[HISTORY: Adopted by the Florida Town Board January 20, 2014]

#### **A. Purpose**

The placement of any kind of signage used by its owner or owners for any reason on land not under the ownership of the person or parties owning the sign is to be prohibited without the express permitted consent of the Town of Florida.

#### **B. Authority to Regulate Off-Premises Signage and Set Fees**

1. All off-premise signs maintained, erected, placed, posted, attached, painted, or otherwise made visible from an adjacent property or right-of-way, except as otherwise prohibited, exempted, or not requiring a permit by this article, require a sign permit in accordance with the provisions of Section 35 (Signs) of the Town of Florida Zoning Ordinance. Any sign that is erected or maintained without a required permit shall be in violation of this ordinance.
2. The Town Clerk shall assess a non-refundable application fee due at time of application, for an Off-Premises Signage permit. The fee schedule for the Off-Premises Signage permit shall be determined by the Town of Florida Town Board.
3. The Town of Florida Town Board may, by resolution, create additional rules and regulations concerning Off-Premises Signage in the Town of Florida as well as revise permit application fees and procedures.

#### **C. Off-Premises Signage Regulations**

1. Signs Exempt from this Off-Premises Sign Ordinance

The following signs are exempt from this ordinance:

- a. On-premise advertising signs
- b. On-premises directional and informational signs.
- c. Signs of a governmental body, including traffic warning or regulatory signs and devices. These signs shall also include other governmental signs including building identification, directional, informational, and welcome signs.
- d. Trade names and graphics which are located on newspaper, soft drink, and similar vending devices.
- e. Flags or insignia of any governmental or non-profit organization when not displayed as an advertising device.
- f. Decorations associated with a national or religious holiday.
- g. Warning or danger signs.
- h. Commemorative, cultural or historical tablets, markers, or monuments erected by or with the permission of a local, county, regional state or federal entity.
- i. Signs required by law, statute or ordinance.
- j. Temporary off-premises yard sale directional signs and off-premises real estate directional signs.

## 2. Prohibited Off-Premises Signage

The following off-premise signs are prohibited within the jurisdiction of this ordinance in the Town of Florida:

- a. Any non-governmental sign which resembles a public safety warning or traffic sign.
- b. Signs, whether temporary or permanent, within any public street or highway right-of-way, with the exception of those signs approved by the government with road maintenance responsibility.
- c. Any sign which obstructs ingress or egress, creates an unsafe distraction for motorists, or obstructs the view of motorists entering a public road or highway.
- d. Signs which incorporate any direct illumination, flashing or blinking lights or signs with moving parts or parts.
- e. Signs located on or attached to the roof of a structure.

- f. Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.
- g. Off-premise signs located on utility poles owned by utility companies.

### 3. Regulation of Off-Premise Advertising Signs

Off-premise advertising signs are permitted in accordance with the following regulations:

- a. A permit is required for each off-premise advertising sign.
- b. Where permitted by the terms of this ordinance, off-premise advertising signs shall comply with the following regulations:
  - i. Size: The maximum size of an off-premise advertising sign shall be 150 square feet per sign face, one sign face per directional flow of traffic per sign structure.
  - ii. The maximum height of an off-premise advertising sign shall be 25 feet.
  - iii. Setback: An off-premise advertising sign shall be setback 10 feet from any road, street or highway right-of-way, if no right-of-way exists, the sign shall be setback 20 feet from the nearest edge of the road, street or highway.
  - iv. Spacing from Other Off-Premise Billboard Advertising Signs: No off-premise advertising sign shall be located closer than 2,000 linear feet from any same road, street or highway.
  - v. Spacing from Other Structures or Land Uses: No off-premise billboard advertising sign shall be located within a 1,000 feet radius of a structure used for residence, a church or place of worship, or within a 1,000 feet radius of any property used for a school, public park or cemetery. Additionally, off-premise signs shall not be located within a 500 feet radius of the intersection of two or more roads, streets or highways or from any bridge 50 feet in length or greater.
  - vi. Spacing from On-Premise Signs: No off-premise sign shall be located closer than 1,000 linear feet from any on-premise sign.

### D. Maintenance of Off-Premises Signage

- 1. All off-premise advertising and off-premise directional signs, supports, braces, poles, wires and other appurtenances of signs or sign structures shall be kept in good repair, maintained in safe condition, and shall conform to the standards in this section. Maintenance carried out in accordance with this section and not the result of damage or destruction shall not require a sign permit, provided the sign is not enlarged, moved or



altered in any manner which would create or increase a nonconforming condition.

2. A sign shall be in a state of disrepair when more than twenty percent (20%) of its total surface area is covered with disfigured, cracked, ripped or peeling paint or poster paper, or any combination of these conditions. Any sign in a state of disrepair shall be considered in violation of this ordinance.
3. No sign shall be allowed to stand with bent or broken sign facing, broken support, loose appendages or struts which causes the sign to stand more than fifteen (15) degrees from the perpendicular.
4. No sign or sign structure shall be allowed to have weeds, vines or other vegetation growing on it and obscuring it from the street or highway from which it is intended to be viewed.
5. No illuminated sign shall be allowed to operate with partial illumination.
6. Any off-premise advertising sign or off-premise directional sign which violates the maintenance provisions listed above shall be in violation of this ordinance and shall be repaired or removed as required by the applicable sections of this ordinance.

E. Penalties for Offenses

1. Any valid permit issued for a lawful off-premise sign structure shall be revoked by the Building Inspector for any one of the following reasons:
  - a. Mistake of material facts by the issuing authority for which had the correct facts been made known, the sign permit in question would not have been issued.
  - b. Misrepresentation of material facts by the applicant on the application for permit for sign.
  - c. Failure to pay annual sign fees.
  - d. Failure to construct sign structure and affix the permanent emblem within 180 days from the date of issuance of permit.
  - e. Any alteration of a sign structure for which permit has been previously been issued which would cause that sign structure to fail to comply with the provisions of this ordinance and the rules and regulations promulgated by the Town of Florida Town Board pursuant thereto.
  - f. Failure to maintain a sign such that it reaches a state of dilapidation or disrepair as determined by the Building Inspector.
2. Any violation of this chapter shall be punished by a fine that may be imposed by the Town Board and together with the costs of prosecution and/or the suspension or revocation of the permit.

F. Enforcement

This ordinance may be enforced by the Town building inspectors and/or Town code enforcement officers. Off-Premises Signage is subject to inspection by Town Officials with permission for inspection given to the Town at the time of the application for a permit.

G. Procedure for Revocation and Suspension of Permits

All suspensions or revocations of permits pursuant to this chapter shall be by determination of the Building Inspector or Code Enforcement Officer. Any individual or other entity subject to a suspension or revocation, pursuant to this chapter, shall have the right to appeal such suspension or revocation to the Town of Florida Zoning Board of Appeals by serving said appeal, in writing, to the Clerk of the Zoning Board within 30 days of the date of the revocation and/or suspension and the receipt of same, and the applicant shall receive a hearing before the Zoning Board of Appeals pursuant to the procedures set forth in the Town Law of the State of New York, § 7-712-a.

H. Severability

If any term, part, provision, section, subdivision or paragraph of this article shall be held unconstitutional, invalid or ineffective, in whole or in part, such determination shall not be deemed to invalidate the remaining terms, parts, provisions, sections, subdivisions and paragraphs.

### **SECTION 36 - Vision Clearance at Intersections**

No obstructions to vision, such as shrubbery, brush, trees, earth, or structure, shall be permitted at road intersections within the triangle formed by the intersections of road center lines and a line drawn between points along such lines 20 feet distance from their point of intersection.

### **SECTION 37 - Landscaping Requirements**

- A. Where any permitted non-residential land use, multiple-family development or mobile home park abuts an existing residential parcel or vacant parcel where residential development could occur, a strip of land at least 20 feet wide shall be maintained as a landscaped area in the front, side and/or rear yard which adjoin these uses.
- B. Required landscaping shall be installed and maintained in a healthy growing condition and shall take the form of any or all of the following: shade trees, deciduous shrubs, evergreens, well-kept grassed areas or ground cover. In any case, all such landscaping shall be a minimum of four (4) feet in height.

### **SECTION 38 - Corner and Through Lots**

Front yard setbacks and minimum road frontages are required on both road fronts. The

two remaining yards shall be designate by the applicant as to which will be the rear yard and which will be the side yard.

### **SECTION 39 - Flag Lots**

- A. The access strip of land shall be a minimum of 60 feet wide and no more than 300 feet deep.
- B. The minimum lot area, lot width and lot depth requirements shall be met exclusively of the land contained in the access strip.
- C. Minimum front, side and rear setback requirements shall be met, excluding the narrow access strip.
- D. No more than one flag lot shall be served by a single access strip.
- E. Access strips shall be a minimum distance apart of at least the minimum lot width in the zoning district.
- F. Access strip shall not be a right-of-way, but shall be owned in fee title by the owner of the flag parcel.
- G. No more than 10 percent of the lots in a new residential subdivision approved after the date of the adoption of these zoning revisions shall be flag lots.

### **SECTION 40 - Environmental Quality Review**

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

### **SECTION 41 - Dish Antennae**

- A. All dish antennae over 36 inches shall be located in either the side or rear yards, unless the owner can prove his/her only "window of reception" is in the front yard. In the event that no "window of reception" is available on the ground, such antennae may be placed on the roof of the dwelling structure.
- B. The location and design of dish antennae shall minimize the visual impact on adjacent property as determined by the Zoning Enforcement Officer, appealable to the Zoning Board of Appeals.

**SECTION 42 - Exterior Lighting**

In no case shall any exterior lighting be directed toward the highway so as to interfere with the vision or attract the attention of the driver of a motor vehicle, nor shall the light be directed toward any other lot or cause excessive illumination of adjacent lots.

**SECTION 43 - Mobile Homes**

Individual mobile homes shall be subject to all the regulations pertaining to detached, one-family dwellings, in addition to the following standards:

- A. The mobile home shall be provided with anchors or tie-downs at least at the corners, attached to concrete footing installed below the frost line or embedded in concrete runners or a concrete slab or a suitable substitute as deemed acceptable by the Building Inspector.
- B. The mobile home will be provided with skirts or screen the space between the mobile home and the stand. Such skirts shall be made of concrete block or a permanent material similar to that used in the mobile home and providing a finished exterior appearance, and shall be installed within four months from date of issuance of permit for the mobile home.
- C. Any construction or storage space, additional rooms or enclosed patios or carports shall have a finished exterior appearance. No exposed building paper, wallboard or other impermanent and unfinished material will be permitted.
- D. The mobile home shall bear the seal required by the State of New York or an equivalent acceptable to the State of New York.
- E. No additions shall be made to a mobile home except a canopy and/or porch open on three sides, or an addition made by the mobile home manufacturer and/or built in conformance with New York State uniform Fire Prevention and Building Code Regulations.
- F. All mobile homes installed in the Town shall meet current US Department of Housing and Urban Development (HUD) standards and shall have a seal by HUD designating and verifying the age of the mobile home.

**SECTION 44 - Public Utility Facility Personal Wireless Service Facility**

Public utility substations and similar structures, shall comply with the following:

- A. Facility shall be surrounded by a fence set back from property lines in conformance with district regulations for front, side and rear yards.
- B. Landscaped area at least 20 feet wide shall be maintained in front, side and rear yards.
- C. There shall be no equipment visible from surrounding property.
- D. Public Utility Services' line poles and attendant lines will be allowed, as necessary, in all districts.

**SECTION 45 - Swimming Pools**

- A. Accessory to Single Family Dwellings

Swimming pools, whether permanent or portable, having depth of at least two (2) feet, shall meet the front, rear, and side setback requirements.

- B. Accessory to Residential Developments

Swimming pools accessory to residential developments, whether clustered single-family dwellings, seasonal dwelling, bungalow colonies, camps or multi-family dwelling, shall be of permanent construction and shall be located not closer than 10 feet to any lot line and closer than 10 feet to any dwelling unit and shall meet the setback of the existing house.

- C. Non-Residential

Swimming pools that are part of non-residential uses, whether commercial or non-commercial, such as hotels, motels, clubs, campgrounds, day-use recreational facilities or institution, shall be of permanent construction and shall be located not closer than the setback requirements for the district in which it is located.

- D. Fencing

Fencing of swimming pools shall comply with the New York State Uniform Fire Prevention and Building Construction Code requirements.

**SECTION 45.1 Adult Oriented Businesses Overlay**

- A. Adult Oriented Businesses have secondary effects that can have a significant impact on the neighborhood and community in which they are located, particularly when concentrated in any one area. The special regulations deemed

necessary to regulate these secondary effects are set forth below. The primary purpose of these regulations is to preserve the community character and quality of life in the Town of Florida. The provisions of this section have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, or to deny access by adults to Adult Oriented Businesses.

- B. No Adult Oriented Business shall be located within one thousand (1,000) feet of the property line of the parcel of land upon which any residence is located.
- C. No Adult Oriented Business shall be located within one thousand (1,000) feet of the property line of the parcel of land upon which any school, child care facility, church or other place of religious worship, public or private park, playground or playing field, bike path, cemetery, youth center or library, is located.
- D. No Adult Oriented Business shall be located within one thousand (1,000) feet of the Town of Florida municipal boundary.
- E. No Adult Oriented Business shall be located on the same parcel as another Adult Oriented Business, or within one thousand (1,000) feet of the property line of the parcel of land upon which any other Adult Oriented Business is located.
- F. Any building or structure in which an Adult Oriented Business is located may have one exterior sign limited to text to identify the name and purpose of said business, and conforming to all sign regulations in Article VIII Section 34 of this ordinance. In addition, no interior sign, display or advertising of any kind shall be visible from the exterior of such building.

### **Section 45.2 - Portable Storage Units**

[HISTORY: Adopted by the Florida Town Board January 20, 2014]

#### **A. Purpose**

The parking or storage of portable storage units, including PODS®, tractor-trailer containers or any other temporary and/or portable structure meant for the storage of personal or commercial property on Town streets and in Town parking lots is to be prohibited. The parking or storage of commercial portable storage units on private property is allowable through regulation by the Town of Florida under this code.

#### **B. Prohibited Activities**

The following activities shall be illegal in the Town of Florida:

1. The parking or storing of any portable storage unit on the streets, on lands or in the parking lots owned or operated by the Town of Florida;
2. The placing of portable storage units as defined in 45.2(A) of this Chapter on private property for more than forty-five (45) days, unless an extension to the original forty-five (45) permit is granted by the Town;

3. Portable storage units must be kept in the driveway of the property at the furthest accessible point from the street;
4. Only one (1) portable storage unit shall be placed on a property at one time, and only one (1) permit shall be granted for a property owner for a given property at any one time.
5. Portable storage units shall not be used as a "Sign" as defined through this Zoning Ordinance unless an appropriate sign permit has been obtained by the property owner.

#### C. Authority to Regulate Portable Storage Units and Set Fees

All portable storage units used or located in the Town of Florida shall obtain a permit from the Town Clerk after completing an application setting forth the use, size, location, duration of use and loading and unloading as well as the name, address and phone number of the individual owner and company responsible for the operation of the portable storage unit and the individual or entity using the portable storage unit. The Town Clerk shall assess a non-refundable Portable Storage Unit Application Fee, due at time of application, for the registration of a forty-five (45) day permit. Upon the expiration of the forty-five (45) day permit, the Applicant may submit a request for an Application Extension to the Town Clerk for an additional forty-five (45) days. Application Extensions shall not exceed a total of one-hundred eighty (180) calendar days.

1. If a building permit and portable storage unit permit are being sought concurrently, the building permit shall not be issued until an Applicant has first obtained a portable storage unit permit. No certificate of occupancy shall be issued until the portable storage unit is removed to the satisfaction of the Code Enforcement Officer.
2. All portable storage units existing in the Town of Florida at the time these regulations are adopted shall be brought into compliance with this ordinance within ninety (90) days of this code being adopted.
3. The Town of Florida Town Board may, by resolution, create additional rules and regulations concerning the use and operation of all portable storage units in the Town of Florida as well as revise permit application fees and procedures.

#### D. Condition of Portable Storage Units

The individual or entity owning or operating any portable storage unit in the Town of Florida shall be responsible for keeping the unit and the surrounding area in a clean, sanitary and safe condition. The portable storage unit door shall be kept closed at all times and shall be locked when not being used. The portable storage unit shall not block any areas which are traversed by vehicular or pedestrian traffic in accordance with the prohibitions listed earlier in this chapter. The portable storage unit shall be kept free of vermin and insects at all times.

#### E. Penalties for Offenses

Any violation of this chapter shall be punished by a fine that may be imposed by the Town Board and together with the costs to remove the portable storage unit, prosecution and/or the suspension or revocation of the permit.

#### F. Enforcement

This ordinance may be enforced by the Town building inspectors and/or Town code enforcement officers. Permitted storage units are subject to inspection by Town Officials with permission for inspection given to the Town at the time of the application for a permit.

#### G. Procedure for Revocation and Suspension of Permits

All suspensions or revocations of permits pursuant to this chapter shall be by determination of the Building Inspector or Code Enforcement Officer. Any individual or other entity subject to a suspension or revocation, pursuant to this chapter, shall have the right to appeal such suspension or revocation to the Town of Florida Zoning Board of Appeals by serving said appeal, in writing, to the Clerk of the Zoning Board within 30 days of the date of the revocation and/or suspension and the receipt of same, and the applicant shall receive a hearing before the Zoning Board of Appeals pursuant to the procedures set forth in the Town Law of the State of New York, § 7-712-a.

#### H. Severability

If any term, part, provision, section, subdivision or paragraph of this article shall be held unconstitutional, invalid or ineffective, in whole or in part, such determination shall not be deemed to invalidate the remaining terms, parts, provisions, sections, subdivisions and paragraphs.

### **SECTION 45.3 - Wellhead Protection**

[HISTORY: Adopted by the Florida Town Board January 20, 2014]

#### A. Purpose

The Town realizes and understands the importance of preservation and protection of the natural resources that enable its residents, property owners, and visitors to occupy and comfortably enjoy their stay within the Town. It is therefore established that, in order to preserve and protect the water supply that lies beneath our soils, the Town does hereby adopt and will enforce the following Wellhead Protection Code. The Town will continue to encourage, adopt, promulgate, and enforce this code that enables the Town to protect its watershed areas by properly controlling uses in areas that have the potential to affect the quality of the water.



## B. Wellhead Protections Measures and Prohibited Activities

1. Livestock and manure stockpiles shall be kept no less than one-hundred (100) linear feet away from any potable water wellhead, if the wellhead is uphill from the manure/livestock location.
2. Livestock and manure stockpiles shall be kept no less than two-hundred (200) linear feet away from any potable water wellhead, if the wellhead is downhill from the manure/livestock location.
3. If livestock are kept on a parcel that draws its water from an on-site wellhead, said wellhead shall be surrounded by a livestock-proof fence or barrier meeting the separation distances in 45.3(C)(1) & 45.3(C) (2) of this ordinance. The fence shall be in conformance with the requirements set forth in Section 15 of this code.
4. If an existing livestock barrier, fence or pen is located on the parcel, said enclosure shall meet the separation requirements listed in subparts 45.3(C)(1) & 45.3(C) (2) of this ordinance. The fence shall be in conformance with the requirements set forth in Section 15 of this code.
5. The storage of salt, chemicals, petroleum products, paint, pesticides, or other materials that could potentially endanger a potable water source shall not be stored within 100 feet of any wellhead.
6. Machinery shall not be stored or refueled within one-hundred (100) feet of any wellhead.
7. Wells abandoned, or no longer in use, shall be sealed according to the standards set by the State of New York Department of Health, in order to prevent potential contamination to waters within the aquifers.

## C. Penalties for Offenses

Any violation of this chapter shall be punished by a fine that may be imposed by the Town Board and together with the costs of prosecution.

## D. Enforcement

This ordinance may be enforced by the Town Building Inspectors and/or Town Code Enforcement officers. Potable water wellheads are subject to inspection by Town Officials.

## E. Severability

If any term, part, provision, section, subdivision or paragraph of this article shall be held unconstitutional, invalid or ineffective, in whole or in part, such determination shall not be deemed to invalidate the remaining terms, parts, provisions, sections, subdivisions and paragraphs.

**SECTION 45.4 - Wind Turbine Facilities Law**

[HISTORY: Local Law No. 1 of 2008, Adopted by the Town of Florida Town Board on October 20, 2008]

This local law enacted by the Town Board of the Town of Florida, shall be cited as the "Wind Turbine Facilities Law."

**Intent and Purpose of Legislation**

Increasing global, national, regional, and local energy demands have lead to a corresponding increase in the demand for alternative energy sources. The Town Board of the Town of Florida recognizes the increased demand for such alternative energy sources and the need for more inexpensive power that wind turbine facilities may provide. The purpose of this local law is to protect and promote the community's safety, health, and welfare by properly sitting wind turbine towers in a manner consistent with sound land use planning while also allowing private and commercial providers to meet their power generating objectives.

**Definitions: "WECS - Wind Energy Conversion Systems"**

a. As used in this local law, the following definitions shall apply:

1. "Roof mounted WECS" – a relatively small wind generating facility generating original power on-site for on-site use by the property owner or homeowner, mounted on the principle building's roof and with a maximum height no greater than ten (10) feet above the highest point of the roof on which it is mounted.
2. "WECS" – any mechanism designed for the purpose of converting wind energy into electrical power.
3. "WECS, Commercial" – a WECS that generating original power on site to be transferred to a transmission system for distribution to customers.
4. "WECS, Noncommercial" – a WECS that supplies power solely for on-site use, except that when a parcel on which a noncommercial WECS is installed also receives electrical power supplies by a utility company, excess electrical power generated by a noncommercial WECS and not presently needed for on-site use may be used by the utility company in exchange for a reduction in the cost of electrical power supplied by that company to the parcel for on-site use, as long as no net revenue is produced by such excess electrical power.
5. "Planning Board" – the duly appointed Town of Florida Planning Board.
6. "Code Enforcement Officer" – the duly appointed Code Enforcement Officer for the Town of Florida.

b. Unless otherwise specifically provided, the masculine shall include the feminine and vice versa.

### Permitted and Prohibited Uses

- a. Roof-mounted WECS shall be permitted use and will not need to meet the special permit requirements provided, here, but must conform to all state and local current building codes and have a building permit.
- b. All other WECS shall require a special permit, issued by the Town of Florida in accordance with the provisions of this local law, for the purpose of protecting the general public of the Town of Florida and properties adjacent to WECS from indiscriminate placement and related health and safety problems. The Planning Board may, after review, waive any portion of the special permit criteria and application procedures set forth below for a Noncommercial Application, except for special, permit criteria (o) of this law and any determination made by SEQR review.

### Special Permit Criteria

- a. No special use permit shall be granted for a WECS and/or transmission system unless it is determined by the Planning Board that the proposed use meets all of the following criteria in addition to the Town Code.
- b. No experimental, homebuilt or prototype WECS shall be allowed without documentation by the applicant of their maximum probable blade throw distance in the event of failure and determination by the Planning Board of appropriate setback distances on the basis of that documentation.
- c. The minimum required, setback distance between each WECS and all surrounding property lines, centerlines of public roads, overhead utility lines, other WECS and above ground generation facilities shall be no less than 1.5 times the proposed structure height plus the rotor radius. These setback requirements may be waived where the applicant submits a signed waiver from the owner(s) of the neighboring property or properties, overhead utility lines or other structure in relation to which the applicant does not meet the setback requirements set forth above. Where an applicant proposes to locate one or more WECS on a site consisting of multiple contiguous parcels owned or leased by the applicant, the term "property lines" shall mean the exterior boundaries of the contiguous parcels which adjoin parcels not owned or leased by the applicant.
- d. The minimum required setback distances between each WECS and any dwelling or other buildings for occupancy shall be no less than 1,000 feet without written permission of the owner and the granting of a waiver, by the Town Planning Board. Once the WECS is constructed, a dwelling or other building for occupancy may be constructed within the 1,000 feet if an application is made to the Town Planning Board by the WECS owner and the landowner and a waiver is granted by the Town Planning Board. Waivers may be granted based on information provided by the applicant that public safety will not be jeopardized.
- e. The applicant must provide proof that no WECS shall be installed in any location along the major axis of an existing microwave communication link where its operation is likely to produce electromagnetic interferences in the link's operation.

- f. The application must provide proof that no WECS shall be installed in any location where its proximity with existing fixed broadcast, retransmission or reception antenna (including residential reception antenna) for radio, television or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception.
- g. Use of nighttime and overcast daytime condition stroboscopic lighting to satisfy WECS lighting requirement for the FAA still be subject to on-site field testing for the Planning Board as a prerequisite to that Board's approval with specific respect to glare to existing residential uses within 2,000 feet of each tower for which such strobe lighting is proposed. Any other lighting used by the applicant be minimal and only that necessary for safety and security purposes. Additional lighting shall be downward directed and will be installed in a manner to prevent casting glare from the site or spillage of light off the site.
- h. No WECS shall be installed in any location that would substantially detract from or block view of a portion of a recognized scenic view shed, as viewed from any public road right-of-way, public body of water or publicly owned land within the Town of Florida or that extends beyond the border of the Town of Florida.
- i. The applicant must provide proof that all WECS shall be located with relation to property lines so that the level of noise produced during wind turbine operation shall not exceed 50 decibels (db) measured at the boundaries of all of the closest panels that are owned by non-site owners and, that abut either the site parcel(s) or any other parcels adjacent to the site parcel held in common by the owner of the site parcel as those boundaries exist at the time of the issuance of any special permit for such facilities.
- j. No WECS shall be permitted that lacks at automate braking, governing or featuring system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components.
- k. The minimum distance between the ground and any part of the rotor blade system shall be 30 feet.
- l. All power transmission lines from the WECS to on-site substations shall be underground. A substation is defined as a structure at which electricity from various WECS locations is collected and sent to existing transmission line.
- m. Procedures acceptable to the Planning Board for emergency shutdown of power generation units shall be established and posted prominently and permanently on at least one location on the road frontage of each individual unit site.
- n. Access to the WECS shall be limited by means of a fence no lower than six (6) feet high around its base with a locking gate on the fence. The Planning Board may waive this if it deems the applicant has provided an alternative that provides public safety.
- o. Noncommercial WECS shall not exceed a total height of fifty (50) feet (inclusive of rotor blade radius) unless the parcel on which the WECS is to be located is ten

(10) acres or larger its which case the maximum total height may be 100 feet inclusive of the rotor blade radius). Noncommercial WECS must meet all setback requirements as listed herein.

- p. Commercial WECS shall not exceed 400 feet, which is the height of the tower plus the radius of the blade.
- q. Use existing roads to provide access to the facility site, or, if new roads are needed, minimize the amount of land used for new roads and locate them so as to minimize adverse environmental impacts.
- r. Any construction involving agricultural land should be done in accordance with the NYS Department of Agriculture and Markets "Guidelines for Agricultural Mitigation for Wind Power Projects."
- s. WECS shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the WECS. The design of the WECS and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment. WECS shall be designed and located to minimize adverse visual impacts from neighboring residential areas, to the greatest extent feasible.
- t. WECS shall be set back at least 2,500 feet from Important Bird Areas as identified by Audubon New York and at least 1,500 feet from state-identified wetlands. These distances may be adjusted to be greater or lesser at the discretion of the Planning Board based on topography, land cover, land uses and other factors that influence the flight pattern of resident birds.

#### Special Permit Application Procedures

- a. An application to the Planning Board for a special permit shall be submitted to the Town Clerk and shall be accompanied by five (5) sets of plans and other descriptive matter to show clearly the intentions of the applicant. These plans shall become a part of the administrative record to determine if the proposed use meets the requirements of this local law. At a minimum, the plans/documents should include:
  - 1. The name or names of the applicant(s) and landowner(s) and contact information for each.
  - 2. The tax map numbers, existing use, and acreage of the site parcel.
  - 3. A survey map at an appropriate scale showing the proposed location of the WECS (including access roads) as it relates to the boundaries of the parcel, adjacent ownerships and existing residences, schools, churches, hospitals, libraries, museums or designed historic or heritage sites to a distance of 2,000 feet.
  - 4. A survey map at an appropriate scale showing any federal, state, county or local parks, recognized historic or heritage sites, state identified wetlands,

- state forests, federal wetlands under jurisdiction of the Corps of Engineer or important bird areas as identified in federal, state, county, local or Audubon New York's GIS databases.
5. Standard drawings of the WECS, including the tower, base and footings, drawings of access roads, including an engineering analysis and certification of the tower showing compliance with the applicable building codes.
  6. Data pertaining to the WECS safety and stability, including safety results from test facilities.
  7. Proposal for landscaping and screening.
  8. A project visibility map, based, on a digital elevation model, showing the impact of topography upon visibility of the project from other locations to a radius of three miles from the center of the project. The scale used shall depict the three-mile radius as no smaller than 2.7 inches and the base map used shall be a published topographic map showing man-made features such as roads and building.
  9. No fewer than four and no more than the number of proposed individual WECS plus three color photos, no smaller than 3" by 5", taken from locations within a three mile radius from the site and to be selected by the Planning Board, and computer-enhanced to simulate the appearance of the as-built site facilities as they would appear from these locations.
  10. A Full Environmental Assessment Form (EAF) and Visual EAF Addendum Form prepared in accordance with the State Environmental Quality Review (SEQR) Act.
    - a. Upon receipt of the application and plans, the Planning Board will review the plans for completeness and when deemed complete, submit to other interested agencies for a coordinated review and to determine lead agency for SEQR. To help in this review, the Planning board can hire, at the applicant's expense, an engineering firm with expertise in this field. An estimate of the cost to provide this service will be submitted to the applicant. The applicant will have to provide the amount to the estimate to the Town of Florida Clerk prior to the review process commencing.
    - b. Upon completion of a coordinated review, this Planning Board will hold a public hearing within 62 days.
    - c. The Planning Board shall render its decision within 62 days of the date the public hearing is closed.

## Insurance

Prior to issuance of a building permit, the applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance of a level to be determined by the Town Board in consultation

with the Town's insurer, to cover damage or injury which might result from the failure of a WECS or any other parts of the generation and transmission facility.

#### Abatement

- a. If any WECS remains non-functional or inoperative for a continuous period of one (1) year, the permittee shall remove the WECS at their expense. Removal of system shall include remove of the entire structure, including foundation, transmission equipment and fencing, from the property, roadways, etc. to return the site to its original condition.
- b. The special permit shall require a permittee to execute and file with the Town Clerk a bond or other form of security acceptable to the Town Board and Town Attorney as to the form, content and manner of execution, in an amount sufficient to ensure the faithful performance of the removal of the WECS and the restoration of the site subsequent to its removal. The amount of the bond or security shall be no less than 125% of the cost of the removal of the WECS and restoration of the site. The bond or other form of security must remain in place as long as the WECS is in use and until the conditions set forth in paragraph "a" of this section are met. If the WECS is sold or transferred, the new owner must immediately provide replacement bonds or other form of security.
- c. If removal of WECS and appurtenant facilities is required and the applicant, permit holder or successors fails to remove towers and appurtenant facilities from the property within 30 days from the date of notification by the Town Board, the Town Board may contract for such removal and pay for such removal from the bond.

#### Maintenance and Enforcement

- a. The owner of each WECS shall have it inspected at least every two (2) years for structural and operational integrity by a New York State licensed professional engineer. The Town Code Enforcement Officer shall be notified ten (10) days prior as to the date and time such inspection is to be made. A copy of the inspection report to the Town Code Enforcement Officer shall be filed within 30 days of inspection. If such report recommends that repairs or maintenance are to be conducted, the owner shall provide to the Town Code Enforcement Officer a written schedule for the repairs or maintenance.
- b. A WECS shall not begin its initial operation until inspections required by the Town of Florida have been given. After initial operations have begun, the Town Code Enforcement Officer or his designee shall have the right, with prior notification at any reasonable time, to enter the premises on which a WECS has been placed to inspect any or all parts of said installation.
- c. After conducting an inspection, the Code Enforcement Officer may order the owner of a WECS in writing to render said WECS inoperative for reasons related to assuring safety of operations, abating noise or eliminating electromagnetic interference. The owner of WECS shall not return the WECS to service until any and all of the reasons that cause the Code Enforcement Officer to issue the order

to the owner to make said WECS inoperative have been corrected to the satisfaction of the Code Enforcement Officer or his designee.

- d. Prior to allowing a WECS to resume operations, the Code Enforcement Officer may require the owner of the WECS to have an inspection made and a report issued by a professional engineer licensed in the State of New York, certifying that the WECS and/or tower is safe.

### Severability

If any part or provision of this local law shall be declared invalid, void, unconstitutional or unenforceable by a court of law, the unaffected provisions hereof shall survive such declaration and this local law shall remain in full force and effect as if the invalidated portion had not been enacted.

### Section 1. Legislative Intent

It is the intent of this local law to amend the Town of Florida Zoning Ordinance, as may have been amended from time to time, to include provisions that address the installation of solar energy systems, as defined in this law, within the municipal boundaries of the Town of Florida.

### Section 2. Authority

This local law is adopted by the Town Board of Town of Florida (hereinafter referred to as the "Town Board") pursuant to its authority to adopt local laws under Article IX of the New York State Constitution; Articles 2 and 3 of the Municipal Home Rule Law; and Article 16 of the Town Law, particularly sections 261 and 263 which authorize the Town to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and "to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefore."

### Section 3. Amendment

(A) Article VIII of the Town of Florida Zoning Ordinance is hereby amended by repealing and replacing the section, designated as "Section 45.5", to said Article VIII to read as follows:

## **Section 45.5: Solar Energy Systems and Equipment**

### **A. Town Policy Statement**

#### 1. Introduction:

The following policy statement regarding solar energy systems is in addition to, and does not necessarily supersede, the general land use policies set forth in the Zoning Ordinance. Where policies conflict, the policies set forth in this section control only as they pertain to solar energy systems.



## 2. In General:

The Town of Florida supports sustainable renewable energy sources such as solar energy and does not seek to discourage such energy sources to be installed in the Town. However, like any land use, solar energy systems have impacts on the community and neighboring properties which the Town seeks to mitigate so as not to adversely affect the Town's unique character nor impinge on properties within the Town. As such, the Town finds that small scale solar energy systems which are accessory to the primary use of the parcel and are installed for the primary purpose of supplying electricity to the buildings located on that parcel is in keeping with the Town's Comprehensive Plan and land use policies. Such accessory systems are to be encouraged so long as they do not impact neighboring properties, are safely installed, do not impair emergency access and are removed when no longer used.

## 3. Specific Policies:

With respect to what is defined herein as Large Scale Solar Energy Systems, the Town is concerned with the potential scale and location of such Systems not fitting in with the existing community character. However, with proper guidelines, criteria and planning, Large Scale Solar Energy Systems of a limited size (see Section C below) may be appropriate but would have to be reviewed on a case by case basis. These Systems are to be encouraged and allowed so long as they fit in with the Town's community character, do not impact neighboring properties, are safely installed and operated, and do not impair scenic views or vistas, future growth, or economic development of the Town, and are appropriately and promptly removed upon decommissioning. Placement of Large Scale Solar Energy Systems in existing fields or areas that do not require significant deforestation or clear cutting and are well-screened from public views as well as nearby properties would increase the possibility of compatibility with the Town's community character and decrease the possibility of significant adverse impacts. It is recognized by the Town that certain scenic views and vistas are important to the Town and should be preserved since they significantly contribute to the Town's rural residential character. The layout of the solar panels and equipment should utilize existing natural features for screening and should avoid detrimental impacts to important natural resources such as wetlands, streams and other surface waters, prime agricultural soils, areas important for outdoor recreation and tourism, historic districts and buildings, home and property values, and the aesthetics of the Town's natural environment. The following regulations are intended to ensure that Large Scale Solar Energy Systems are only allowed of a scale, location and plan that appropriately recognizes the aforementioned land use policies, as well as the policies set forth in the Town's Comprehensive Plan and Zoning Ordinance.

### **B. Small-Scale Solar Collector System - Solar as an Accessory Use/Structure**

#### 1. Solar: Roof-Mounted Energy Systems.

a) Roof Mounted Solar Energy Systems that use the electricity onsite are permitted as an accessory use in all zoning districts of the Town of Florida when attached to any lawfully permitted building or structure.

b) Height. Solar Energy Systems when mounted to a roof shall not exceed maximum height restrictions within the zoning district it is located and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.

c) Aesthetics. Roof-Mounted Solar Energy System installations shall incorporate, when feasible, the following design requirement: Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system. All Solar Panels and Solar Equipment shall be made of such materials so as to not create or be conducive to glare.

d) Roof-Mounted Solar Energy Systems that use the energy onsite shall be exempt from site plan or special permit review and shall be allowed upon issuance of a building permit by the Town's Code Enforcement Officer/Building Inspector.

e) Plans prepared in accordance with the New York State Building Code shall be submitted to the Town's Code Enforcement Officer/Building Inspector and a permit issued prior to the commencement of installation. All electrical work shall be performed and/or inspected by an electrician or an electrical inspector licensed in New York State.

## 2. Ground-Mounted Solar Energy Systems.

a) Ground-Mounted Solar Energy Systems that use the electricity primarily onsite are permitted as accessory structures subject to issuance of a special use permit and site plan review, through the Planning Board, in all zoning districts of the Town of Florida.

b) Height and Setback. Ground-Mounted Solar Energy Systems shall adhere to the height and setback requirements of the underlying zoning district in which they are located.

c) All such Systems shall be installed in side or rear yards at an adequate distance from adjacent properties and in no case less than 20 feet from all property lines.

d) All such Systems shall be located in such a manner so that the System is adequately screened with respect to neighboring properties so that the views of the System from neighboring properties, particularly residences, are not a significant detraction. Screening can be accomplished by utilizing existing buildings and vegetation as well as deer resistant evergreen plantings when necessary. Any screening which is proposed by the applicant as part of the application or required by the Town Board as part of the approval shall be fully installed prior to the issuance of a certificate of compliance and prior to any operation of the System. All Solar Panels and Solar Equipment shall be made of such materials so as to not create or be conducive to glare.

e) The location of Ground-Mounted Systems shall not interfere with adequate parking or with ingress and egress to the property on which it is located.

Ground-Mounted Solar Energy Systems in all districts must allow room for emergency services access to all buildings on the property or neighboring properties. The systems must be at least 20 feet from any existing structures and must not block any existing roadways, lanes or other pathways to buildings. The intent of this section is to ensure adequate emergency access.

f) Once site plan approval is received, plans prepared in accordance with the New York State Building Code shall be submitted to the Town Code Enforcement Officer/Town Building Inspector and a permit issued prior to the commencement of installation. All electrical work shall be performed and/or inspected by an electrician or an electrical inspector in New York State prior to final approval.

### 3. General Directions for Accessory Solar Energy Systems.

a) Roof-Mounted Solar Energy Equipment such as batteries and control panels (except individual on/off switches) shall be installed inside walls and attic spaces to reduce their visual impact. Ground Mounted Solar Energy Equipment shall be located in out-buildings where feasible or otherwise in such a manner to reduce their visual impact. Electric lines or wires from the System or Equipment to buildings should be installed below ground.

b) Decommissioning: If the Solar Energy Equipment is no longer in use for more than 18 months or becomes obsolete, the property owner shall remove the Solar Energy Equipment and restore the property within a reasonable time-period after non-use. Failure to do so shall constitute a zoning violation and may be enforced pursuant to Article XI of the Zoning Ordinance.

## **C. Solar – Large/Utility Scale**

Large Scale Solar Energy Systems are permitted only in the C-1 Commercial, C-2 Commercial, Industrial Business Parks, and Natural Products zoning districts of the Town of Florida and only upon issuance of a special use permit and site plan approval and compliance with the general standards and requirements in these regulations as well as the following requirements and standards. As is set forth below, the size of a Large Scale Solar Energy System is restricted in the Town of Florida. The reason for restriction is that the Town's current community character and economic well-being is dependent upon its natural resources and setting, its scenic views, its historic places and buildings, its agricultural history and its outdoor recreation and tourism opportunities. The future of the Town in terms of both its economy and the welfare of its residents depends on the continual preservation and promotion of such vital aspects of the Town. In this regard, the Town Board specifically finds that any Large Scale Solar Energy System greater in size than what is allowed by special use permit or otherwise as is set forth herein will be contrary to the community character and the future economic viability of the Town and would unreasonably burden the residents, taxpayers and the electric rate payers of the Town of Florida. The aforementioned policies and findings are based upon, supported by, and consistent with the Town of Florida's Comprehensive Plan.

### 1. Application Requirements.

Large Scale Solar Energy Systems are permitted through the issuance of a special

use permit within the C-1 Commercial, C-2 Commercial, Industrial Business Parks, and Natural Products Districts, subject to the requirements set forth in this section, including site plan approval by the Planning Board. Applications for a special use permit shall be submitted to the Town Board for an initial review of completeness; once the Town Board determines that an application is complete, it will refer the application to the Planning Board for a report and recommendation; the Planning Board shall submit its report and recommendation to the Town Board within forty five days after receiving the referral; the Town Board will then commence its review and action, which can include approval, approval on conditions, or denial; following approval, or approval on conditions, the application will be subject to site plan review by the Planning Board.

a) Special Use Permit Application Requirements. For a Large Scale Solar Energy System, both the site plan and special permit applications, and required application materials, fees and submissions, are to be used in keeping with the relevant Articles of this Law, and supplemented by the following requirements:

- 1) If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.
- 2) Blueprints showing the layout of the Solar Energy System signed by a Professional Engineer or Registered Architect shall be required.
- 3) The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
- 4) A full environmental assessment form, with Part 1 completed, and the visual assessment form addendum.
- 5) Storm water runoff calculations and drainage plan.
- 6) The location and extent of natural resources and other significant features of the site including but not limited to the following: streams, wetlands, ponds, prime agricultural soils, flood plain, rock outcroppings, and extent of clearing of mature trees, existing or proposed easements or right-of-ways.
- 7) Landscaping/Screening Plan. Such plan shall describe the methods and types of screening that is proposed, including but not limited to existing vegetation, topography, fencing and structures, and also detailing the number, location, size and species of vegetation to be planted on site and the size and extent of berms. Such plan shall also include appropriate performance criteria specifying minimum vegetation sizes and measures to be taken in the event that the proposed vegetation fails to survive, flourish, or otherwise meet said performance criteria throughout the lifetime of the project.
- 8) Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep including landscaping, mowing and trimming as well as any agricultural operations that will occur on the site or property once the System is installed.

9) The Applicant shall provide written confirmation that the electric grid has the capacity to support the energy generated from the proposed Large Scale Solar Energy System at its maximum peak design. A location map of the connection point to the grid shall be provided along with a description of any easements or right-of-ways, clearing, infrastructure, appurtenances and equipment that may be necessary or required to connect to the grid.

10) Decommissioning Plan. To ensure the proper removal of Solar Energy Systems and Equipment, a Decommissioning Plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of a special use permit under this Section. The Decommissioning Plan must identify who will be responsible for the removal of the System after the Large Scale Solar Energy System is no longer in use. The Decommissioning Plan shall demonstrate how the removal of all infrastructures and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to installation. The Plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a Professional Engineer or Contractor. Cost estimations shall take into account inflation. Removal of Solar Energy Systems must be completed in accordance with the Decommissioning Plan. The Town shall also require a decommissioning bond or other financial security in which to finance the cost of such removal and restoration if not removed by the party designated in the plan as the party responsible for removal of the System within the time specified for removal in the Decommissioning Plan.

## 2. Specific Standards for Large Scale Solar Systems as a Special Use.

a) Height and Setback. The Solar Energy System shall have a maximum height of twenty (20) feet from ground elevation and shall be setback at a minimum of five hundred (500) feet from all of the parcel's boundary lines and two hundred (200) feet from all wetlands, ponds and streams. Buildings and accessory structures other than Solar Energy Equipment, if any, shall adhere to the height and setback requirements of the underlying zoning district.

b) Lot and System Size. Large-Scale Energy Systems shall only be located on lots with a minimum lot size of ten (10) acres. The size of the Solar Energy System shall be limited to a maximum of 5 MW of electrical energy generation per design at peak levels of operation or the land surface area covered by the Solar Energy System including internal access roads, Solar Panels and all System components and Solar Equipment, shall not encompass more than twenty-five (25) acres of the lot regardless of whether the System is contiguous or noncontiguous.

c) Lot Coverage. For purposes of this section, the surface area covered by Solar Panels, Solar Equipment and all System components including internal access roads shall be included in total lot coverage. If the area in which the Solar Energy System is to be placed is leased, then the terms "lots" and "entire lot size" shall mean the land area that is leased. A Large Scale Solar Energy System shall not exceed the maximum lot coverage of the lot on which it is installed as follows:

- For lots consisting of 10 to 15 acres, the maximum total lot coverage shall be 1/3

(33/3%) of the entire lot size.

- For lots consisting of 15 to 25 acres, the maximum total lot coverage shall be 2/5 (40%) of the entire lot size.

- For lots greater than 25 acres, the maximum total lot coverage shall be 1/2 (50%) of the entire lot size with a maximum system size as set forth in subsection b above.

d) No part of a Large Scale Solar Energy System shall be located above the elevation of 700 feet, along ridgelines, on hilltops, or on slopes greater than 12%.

e) All Solar Energy Systems shall be sited and screened in such a manner to have the least possible visual effect on neighboring properties, public roads and recreational areas, important scenic vistas and the general aesthetic environment. Screening by existing topography, trees and vegetation shall be incorporated to the maximum extent practicable and where not practicable screening must be installed such as vegetative berms or deer resistant evergreen plantings or a combination thereof.

f) Significant clearing of mature tree growth and hedgerows should be avoided to the maximum extent possible. Installation of Large Scale Solar Energy Systems on fields or land areas which do not require significant clear cutting is preferred. In no case shall the Solar Energy System require clear cutting of more than 9 acres. Once the land is cleared and the Solar Energy System is installed, the land disturbed must be reseeded or replanted with a combination of native plant species and native grass. Ground cover of gravel or other non-vegetative cover should only be used for access and internal roads to the maximum extent practicable.

g) Installation of Large Scale Solar Energy Systems on land areas which contain prime agricultural soils shall be avoided to the maximum extent possible. In no case shall the Solar Energy System cover more than 5 acres of prime agricultural soils.

h) The materials used for the Solar Energy System shall not be conducive to glare visible from beyond the lot's boundary lines. The Solar Energy System shall not generate noise or heat detectable from beyond the lot's boundary lines.

i) All Large-Scale Solar Energy Systems shall be enclosed by fencing no less than 8 feet in height to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The type of fencing shall be determined by the Town Board or Planning Board. The fencing may need to be setback from boundary lines and roads and further screened by any landscaping needed to avoid adverse aesthetic and safety impacts.

j) Any associated structure shall be screened, placed underground, depressed, earth bermed or sited below the ridgeline to the greatest extent feasible, particularly in areas of high visibility, and the same shall be noted in the Site Plan. Where feasible, all utilities serving the site shall be underground.

k) If solar storage batteries are included in the Solar Energy System, the batteries must be placed in a secure container or enclosure meeting the requirements of the International Building Code, International Fire Prevention Code and NFPA 70. When the batteries are no longer in use, they shall be disposed of in accordance with the

International Building Code, International Fire Prevention Code and NFPA 70 as well as the local laws of the Town, and any other applicable laws or regulations.

l) No artificial light is permitted, unless the same is required by a federal, state or local authority or regulation. Exterior lighting may be provided for associated accessory structures and access entrances as may be determined appropriate for security purposes only. If lighting is proposed a lighting plan shall be included with the Site Plan that is compliant with lighting standards set forth in the Zoning Ordinance.

m) Roadways within the site for solar access shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soil compaction, while providing sufficient ability, including but not limited to load bearing ability, to accommodate fire and other emergency apparatus. The layout, location, and number of access roads will be subject to site plan review.

n) Roadways must be properly maintained and kept free of debris and snow. Snow removal shall be within 24 hours of accumulation of a minimum of 6" of snow.

o) Review and approval of the application by the nearest fire department for accessibility of emergency vehicles and equipment is required prior to site plan review.

p) Any application under this Section shall meet any provisions, requirements and standards contained in the Zoning Ordinance that, in the judgment of the Town Board and Planning Board pursuant to their respective jurisdictions, are applicable to the Large Scale Solar Energy System Solar Energy System being proposed. If none of such requirements are applicable, the reviewing Boards may waive certain of the requirements under their respective review jurisdictions.

q) The Town Board may impose conditions on its approval of any special use permit and the Planning Board may impose conditions on its approval of any site plan under this Section in order to enforce the standards referred to in this Section or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA).

### 3. Additional Requirements.

a) The owner or operator shall maintain general liability insurance coverage on any solar energy system in the amounts of \$1,000,000 for injuries and \$500,000 for property damages, naming the Town of Florida as additional insured.

b) If in the course of the delivery, installation, maintenance, dismantling, removal or transport of the solar energy system or any components thereof the property of the Town of Florida, including but not limited to roadways, shoulders, drainage structures, signage, guide rails, etc., is damaged by the efforts of the applicant or any agents thereof, the applicant shall, within 30 days of the damage, completely replace or repair all damage to the satisfaction of the Town.

c) Any damaged or unused components of the system shall be removed from the premises within 30 days and disposed of legally. All maintenance equipment and

spare parts shall be kept in a designated storage area which is fenced and screened.

d) If the ownership of a solar energy system changes, the special use permit and site plan approvals shall remain in full force and effect providing all the conditions of the special use permit, including bonding, letters of credit or continuing certification requirements or obligations, including maintenance, continue to be obligations of successor owners. The change in ownership shall be registered with the Town Clerk with a copy to the Code Enforcement Officer/Building Inspector within 30 days of the change taking effect. The Town Clerk shall notify the Town Board of such change.

e) Any and all modifications, additions, deletions, or changes to the Solar Energy System, whether structural or not, shall be subject to the Town Board's approval as an amendment of the special use permit and/or site plan, except that such amendment shall not be required for repairs which become necessary in the normal course of use of such system.

f) An inspection report prepared by a duly qualified engineer licensed in the State of New York shall be required at the time of installation and every three years thereafter. The cost for this inspection shall be borne by the applicant and/or the current owner. The inspection report is required at the time of installation and in advance of powering the system for use. Thereafter, it shall be done to inspect all components of the solar energy system to ensure proper operation. The inspection report must be filed with the Code Enforcement Officer/Building Inspector. All recommendations for maintenance and repair contained in said inspection report shall be completed at the expense of the applicant/owner and shall be conducted within a written scheduled time frame agreed upon by the Code Enforcement Officer/Building Inspector.

g) No part of the Solar Energy System, including area of lot coverage, shall be used for the display of any advertising, decorative flags, streamers, or any other decorative items.

h) When any Solar Energy System is installed and before it becomes active, the owner of the site and/or the Solar Energy System must contact the Town's emergency responders departments to make arrangements for a meeting at the site to review the components of the array and to be educated on safety issues and procedures for emergency response. This shall include detailed discussion related to the location of labeled warnings, access to the site and information on emergency disconnection of the system. In addition, the Town Board may require a plan for installation regarding the location of placards which provide mutual aid responders with sufficient information to protect them when responding to calls on site.

i) Native grasses and vegetation shall be maintained below the arrays and shall not include use of herbicides.

j) Decommissioning: Large Scale Solar Energy Systems are considered abandoned after 18 months without electrical energy generation and must be removed from the property. Applications for extensions may be submitted to and are reviewed by the Town Board for a period of additional 6-month periods not to exceed a total of 18 additional months. The owner of a solar energy system shall annually, by January 15, file a declaration with the Town of Florida certifying the continuing safe operation



of said system installed subject to these regulations, as well as the status notification set forth in subsection f above. Failure to file a declaration shall mean that the system is no longer in use and shall be considered abandoned. At the time that a system owner plans to abandon or discontinue operation of a solar energy system, such owner must notify the Town, in writing, of the proposed date of abandonment, or discontinuance of operations. In the event that a system owner fails to give notice, the system shall be deemed abandoned upon such discontinuance of operations. In any event, a Solar Energy System shall also be considered abandoned when it has not been used for the purpose for which it was permitted, for a period of 18 months. Upon abandonment or discontinuance of use, the system owner or operator shall in addition to complying with the decommissioning plan, assure, if not part of the approved decommissioning plan, physical removal of the Solar Energy System, and all accessory structures and/or equipment within 90 days from the date of abandonment or discontinuance of use. "Physically remove" shall include, but shall not be limited to: (i) removal of panels, collectors, support units (including all underground wiring), mounts, equipment shelters and security barriers from the property; (ii) proper disposal of the waste material from the site in accordance with local and state solid waste disposal regulations; and (iii) restoring the land area where the Solar Energy System was located to its natural condition, except that any landscaping and grading may remain in the "after" condition. If the owner of the system fails to properly remove said Solar Energy System and associated structures and equipment within 90 days from the date of abandonment, the Town may exercise its option to remove said system at its own discretion upon notification to the owner of the system and the property owner, at the expense of the owner or owners for which the surety, as described below, shall be used. The applicant must provide the Town with written authority from the owner or owners of record for the subject property where the Large Scale Solar Energy System is located to bind successors and assigns to allow the Town to enter onto the subject property to physically remove the system in the event that the party identified as the party responsible for removal of the System fails to timely remove the system in accordance with the requirement of this Section and the special use permit. Prior to commencement of construction of the approved Solar Energy System, the applicant shall provide the Town with a bond or other acceptable security in an amount determined by the Town Board, but in no case less than 125% of the cost for the removal of the system and remediation of the landscape, in the event the Town must remove the facility. The terms of the bond or other security shall be clear as to who is responsible for removal of the System, the time in which removal must occur, and when or upon what circumstances the security is to be transferred to the Town. The bond or security instrument shall also be in a form acceptable to the Town's legal counsel, which includes but is not limited to letter of credit, perpetual bond, or any combination thereof. The amount of the bond or security shall be reviewed from time to time by the Town Board and shall be adjusted if deemed necessary by the Town Board. If the amount of the bond or security is adjusted, the applicant shall have 90 days from the date of the notice that adjustment is required to provide an adjustment bond or security in a form acceptable to the Town's legal counsel.

(B) Article III, Section 4 of the Town of Florida Zoning Ordinance is hereby amended to add the following terms and accompanying definitions to said Article, pursuant to their alphabetical placement in said Article, as follows:

PRIME AGRICULTURAL SOILS as defined and designated by the Montgomery

County Agricultural and Farmland Protection Program and the Agriculture and Markets Law Article 25-AAA.

PRIMARY USAGE (e.g. “use the electricity primarily onsite” or “produces energy primarily for”, “for power generation primarily for”) shall equal no more than 110% of onsite electrical usage on average over the preceding 12 months as demonstrated on utility bills.

SOLAR - LARGE SCALE: An installation of Solar Panels and Solar Equipment that is ground-mounted and produces energy primarily for the purpose of offsite sale or consumption. Any installation producing electricity greater than 110% of onsite electrical usage on average over the preceding 12 months as demonstrated on utility bills is considered Large Scale Solar. It is a use allowed upon issuance of a special use permit and site plan approval only in the C-1 Commercial, C-2 Commercial, Industrial Business Parks, and Natural Products Town Zoning Districts.

SOLAR: ROOF-MOUNTED SYSTEM: Any solar collector, solar energy device or structure which is attached to the roof of a building or structure and whose primary usage and purpose is to provide for the collection, storage, and distribution of solar energy for space heating, cooling, water heating, or for power generation primarily for the buildings and structures located on the same parcel as the solar energy system. This type of system requires a permit as an accessory use in all Town Zoning Districts prior to installation.

#### Section 4. Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

#### Section 5. Effective date

This local law shall take effect immediately upon filing with the Secretary of State.

## **ARTICLE IX - OFF STREET PARKING AND LOADING**

### **SECTION 46 - Automobile Parking Facilities**

Where one or more motor or other vehicle recurrently parks by reason of the use and occupancy of the premises, there shall be provided on or in convenient connection therewith adequate garage or vehicular parking spaces for the number and in proportion to the vehicular parking spaces for the number and in proportion to the size of the vehicles which so park, the minimum to be not less than one hundred eighty square feet per automobile, in addition to driveway and backing and turning space. The recurrent parking of any such vehicle shall be evidence of the failure to provide adequate and suitable garage or parking source on or in convenient connection with such premises.

Parking requirements for certain uses are specified in Schedule B. For uses not specified, the Board of Appeals shall establish parking requirements, after recommendation of the Planning Board.

For any building having more than one use, parking shall be required for each use.

### **SECTION 47 - Off-Street Loading Facilities**

Off-street loading facilities shall be provided for each commercial or industrial establishment hereafter erected or substantially altered and shall be so arranged as not to interfere with pedestrian or motor traffic on the public street or highway.

Loading space requirements for certain uses are specified in Schedule B. For uses not specified, the Board of Appeals shall establish loading requirements, after recommendation of the Planning Board.

Loading requirements apply to each separate occupancy and are exclusive of driveways, aisles and other necessary circulation areas.

### **SCHEDULE B - OFF-STREET PARKING & LOADING**

#### **PARKING**

#### **SPACES REQUIRED**

- |  |   |
|--|---|
| 1. Dwelling  | 2 spaces for each dwelling unit or<br>1 1/2 space per dwelling w/3+ units |
| 2. Rooming house,<br>Tourist home,<br>hotel, motel   | 1 space for each guest room   |
| 3. Administrative,<br>professional, utility,<br>governmental office or<br>eleemosynary (charitable<br>institution) | 1 space for each 400 square feet<br>of floor space                        |

4. Funeral Home	10 spaces, plus space for all employees and resident personnel.
5. Church	1 space for each 3 seating spaces in the main assembly room
6. Elementary School	2 spaces for each classroom
7. High School	4 spaces for each classroom
8. Theater or other place of assembly	1 space for each 2 seating spaces plus one for each employee.
9. Hospital	3 spaces for each bed
10. Nursing or convalescent home	1 space or each 4 beds plus one for each staff member(max. shift)
11. Retail store or bank	3 spaces for each 250 square feet of floor space devoted to customer use
12. Clubs or Restaurants	1 space for each two customers seats plus 1 for each employee based on max. working shift
13. Bowling Alley	5 spaces for each alley plus one for each employee, max. shift
14. Wholesale, storage, freight terminal or utility use	1 space for each 1,000 square feet of gross floor area
15. Industrial	1 space for each two employees for manufacturing use based on the maximum working shift
16. Home Occupation	1 space for each client or patient

**OFF-STREET LOADING USE****SPACES REQUIRED**

1. All commercial use	1 space for five thousand (5,000) SF or more gross floor area, plus 1 space for each additional six thousand (6,000) SF gross floor area
2. All industrial use	1 space for five thousand (5,000) SF or more gross floor area, plus 1 space for each additional six thousand (6,000) SF gross floor area

- |                |  |
|----------------|--|
| 3. Institution | 1 space for five thousand (5,000) SF or more gross floor area, plus 1 space for each additional six thousand (6,000) SF gross floor area |
| 4. Hospital    | 1 space for five thousand (5,000) SF or more gross floor area, plus 1 space for each additional six thousand (6,000) SF gross floor area |
| 5. Hotel       | 1 space for five thousand (5,000) SF or more gross floor area, plus 1 space for each additional six thousand (6,000) SF gross floor area |

## **ARTICLE X - NON-CONFORMING USES**

### **SECTION 48 - Continuation of Non-Conforming Uses**

The lawful use of any land or building existing at the time of adoption of this Ordinance may be continued although such use does not conform to the provisions of this Ordinance. Any such building may be reconstructed or structurally altered and the non-conforming use thereby changed, provided the following conditions prevail:

### **SECTION 49 - Non-Conforming Uses of Buildings**

1. Reconstruction or Alteration A non-conforming building may not be reconstructed or altered during its life to exceed fifty (50) percent of its fair value, unless such building is changed from a non-conforming use to a conforming use as defined by this Ordinance, except that a mobile home which is a pre-existing nonconforming use may be replaced with a new or larger mobile home, provided that such exchange is made within 30 days, and the owner has obtained a building permit to make the exchange.
2. Restoration A building, non-conforming as to use, which has been damaged by fire or other causes to the extent of seventy-five (75) percent of its fair value, and has not been repaired or reconstructed for the same non-conforming use within a period of twelve (12) months, shall not be repaired or reconstructed except in conformance with the regulations of the District in which such building is located.
3. Discontinuance When a non-conforming use has been discontinued for a period of twelve (12) months, any future use of such building shall conform with the regulation for the District in which it is located.
4. Changes A non-conforming use may not be changed to another non-conforming use under the provisions of this Section.
5. Completion of Building Any building lawfully under construction at the time of enactment of this Ordinance may be completed.

### **SECTION 50 - Non-Conforming Use of Land**

The non-conforming use of land shall not be enlarged or extended beyond the area of land occupied by such use at the time of adoption of this Ordinance. A non-conforming use of land may not be moved in whole or in part to any other portion of the lot or parcel of land occupied by such non-conforming use at the time of adoption of this Ordinance. If a non-conforming use of land is discontinued for a period of twelve (12) consecutive months, it shall not be renewed, and any subsequent use of the land shall conform to the regulations of the district in which the land is located.

## **ARTICLE XI - ADMINISTRATION**

### **SECTION 51 - Enforcement**

This ordinance shall be enforced by the Enforcement Officer designated by the Town Board. The Enforcement Officer shall in no case grant any building permit where the proposed erection, alteration, relocation, or use would be in violation of any provision of this Ordinance. The Enforcement Officer shall make inspections of buildings or premises necessary to carry out his duties. No permit or certificate of occupancy required hereunder shall be issued by the Enforcement Officer except in compliance with the provisions of this Ordinance or as directed by the Board of Appeals under the provisions of ARTICLE XII.

### **SECTION 52 - Building Permit**

1. No building shall hereafter be erected, relocated or altered as to outside dimensions or so as to permit a change in its use and no excavation for any building shall be begun unless and until a permit therefore has been issued by the Enforcement Officer.
2. No such permit shall be issued until there has been filed with the Enforcement Officer a sketch or plot plan showing the actual dimensions and angles of the lot to be built upon, the exact size and location of the lot of the building or accessory buildings to be erected, relocated or altered and such other information of this ordinance. Each application shall state the purpose for which the structure of land is to be used and a general description of the type of construction. A working drawing of any proposed building shall be filed with the application for a building permit.
3. The Enforcement Officer shall act upon all applications for building permits within a reasonable time not to exceed 10 days, and shall, within such period, issue or refuse to issue such permits. Notice of refusal to issue any permit shall be given to the owner or to his authorized representative in writing, and shall state the reason for said refusal. The fee for any such permit shall be determined by the Town Board from time to time.
4. A building permit shall be issued for a period of one year and may be renewed for two additional years. If the improvements described in the application for a building permit have not been completed within three years from the date that the permit is issued, the owner shall apply to the Zoning Board of Appeals to continue the permit in force.
5. No building permit shall be issued for lots in an approved subdivision except as provided for in the subdivision regulations.

### **SECTION 53 - Certificate of Occupancy**

No land shall be used or occupied and no building hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the Enforcement Officer. Under such rules as may be established by the Board of

Appeals, a temporary certificate of occupancy for not more than 30 days for a part of a building may be issued by the Enforcement Officer. For previously existing construction, the Enforcement Officer may, on request, issue such certificate if he determines that the use of the building in question meets the requirements of the ordinance.

A certificate of occupancy shall be issued only if the proposed use and construction of the building or land conforms to the provisions of this ordinance and to the plot plan, purpose and description of which the permit was issued. The Enforcement Officer shall make or cause to have made an inspection of each building or lot for which a certificate of occupancy has been applied before issuing such certificate. Such inspection shall be made within ten (10) days from the date of application, Saturday, Sundays and legal holidays excepted.

The Enforcement Officer shall deny a certificate of occupancy if any violation of the State or County Health regulations is discovered. The issuance of a Certificate of Occupancy shall not be construed as a representation by the Town that the premises comply with such health Regulations, but solely that no violations have been found.

#### **SECTION 54 - Violations**

1. Any person, firm or corporation who commits an offense against, disobeys, neglects or refuses to comply with or resists the proper enforcement of any of the provisions of these regulations shall, upon conviction, be deemed guilty of a violation, punishable by a fine of \$350.00, or by imprisonment not exceeding twenty (20) days, or by both such fine and imprisonment. Each week an offense is continued shall be deemed a separate violation of these regulations.
2. In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained; or any building, structure or land is used; or any land is divided into lots, blocks, or sites, In violation of this Ordinance, the Town Board or the Zoning Enforcement Officer may institute an action or proceeding in the Town Justice Court or In the County Court, Montgomery County, to prevent such unlawful conduct; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about subject premises. In any such action by the Town Board or the Zoning Enforcement Officer, any person found to have violated the ordinance shall be liable to the Town.



## **ARTICLE XII - ZONING BOARD OF APPEALS**

### **SECTION 55 - Creation, Appointment and Organization**

A Zoning Board of Appeals is hereby created. Said Board shall consist of five members appointed by the Town board. The Town Board shall also designate the Chairman. The Zoning Board of Appeals shall prescribe rules for the conduct of its affairs.

### **SECTION 56 - Powers and Duties**

The Zoning Board of Appeals shall have all the powers and duties prescribed as by statute and by this Ordinance, which are more particularly specified as follows:

1. Interpretation: Upon appeal from a decision by an administrative official, 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. Appeals for Variances: The Zoning Board of Appeals shall hear requests for variance s. Not all requests for variances need include a denial from the Zoning Enforcement Officer. New State laws passed in 1993 allow applicants with proposed subdivisions or site plans which lack minimum area, frontage or setback requirements to appeal directly to the Zoning Board of Appeals.
3. Area variances: Area variances may be granted where setback, frontage, lot size, density or yard requirements of this ordinance cannot be reasonably met. In making decisions, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Zoning Board of Appeals shall also consider:
  - a. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting of the area variance;
  - b. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
  - c. Whether the requested area variance is substantial;
  - d. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

- e. Whether the alleged difficulties were self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it deems necessary and adequate and yet at the same time which will preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

- 4. Use Variance: Use variances may be granted by the ZBA for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulation.

No such variance shall be granted by a Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have cause unnecessary hardship. The applicant shall demonstrate to the Zoning Board of Appeals that:

- a. Under applicable zoning regulations the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence;
  - b. That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district of neighborhood;
  - c. That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
  - d. That the alleged hardship has not been self-created.
- 5. Procedure: All applications for variances shall be in writing on forms established by the Zoning Board of Appeals. They are available from the Zoning Enforcement Officer;
    - a. Every application shall refer to the specific provision of the law involved and establish the details of why the variance should be granted;
    - b. Upon receipt of the completed application, the Zoning Board of Appeals shall:
      - 1) Schedule a public hearing within 62 days;
      - 2) Arrange publication of notice of public hearing in the Town's official newspaper;
      - 3) Notify the applicant of the date of the public hearing at least 15 days in advance of such hearing;

- 4) All use variances submitted to the Zoning Board of Appeals shall be referred to the Planning Board for review as to the conformance with the objectives of the Comprehensive Plan. No decision shall be made by the Zoning Board of Appeals until such Planning Board review has been completed and a report issued. If the Planning Board fails to issue its report within 30 days, the Zoning Board of Appeals shall assume that a favorable report has been issued;
  - 5) Refer application to the County Planning Board as required by General Municipal Law Section 239, if required;
  - 6) Determine whether a Draft Environmental Impact Statement should be required.
- c. The applicant shall notify by certified mail, return receipt required, all landowners within 500 feet of the applicant's parcel.
  - d. Within 62 days of the close of the Public Hearing, the Zoning Board of Appeals shall render a decision. If the matter was referred to the County Planning Board, a copy of the Zoning Board of Appeals' findings and decision must be sent to the County Planning Board
  - e. Every decision of the Zoning Board of Appeals shall be by resolution, each of which will contain a full record of the findings of the Board in the particular case. Each such resolution shall be filed in the office of the Town Clerk by case number under one or another of the following headings: Interpretations, Use Variances and Variance Variances; together with all documents pertaining thereto. The Zoning Board of Appeals shall notify the Town Board of each variance granted under the provisions of this ordinance.

## **ARTICLE XIII - AMENDMENTS**

### **SECTION 57 - Amendments, How Initiated**

The Town Board may, from time to time, on its own motion, amend, supplement, repeal or change the regulations or district boundaries established by this ordinance.

Whenever the owners of fifty (50) percent or more of the frontage in any district or part thereof included in such change shall present a petition duly signed and acknowledged the Town Board requesting an amendment, supplement or change of the regulations prescribed for such district or part thereof, it shall be the duty of the Town Board to vote upon said petition within ninety (90) days after the filing of the same by the petitioners with the Town Clerk.

The Planning Board may, by resolution, propose an amendment to the Town Board suggesting a change or repeal of specific portions of the regulation. Within ninety (90) days from the time such resolution is filed with the Town Clerk it shall be the duty of the Board to vote on such proposed amendment.

### **SECTION 58 - Referral of Amendments to Town Planning Board**

All proposed amendments, supplements or change originating by petition, or by motion of the Town Board, shall be referred to the Town Planning Board for a report and recommendation thereon. The Town Planning Board shall submit its report within forty-five (45) days after receiving referral. Failure of the Planning Board to report within the required time may be deemed to be approval of the proposed amendment.

### **SECTION 59 - Hearing on Proposed Amendment**

Before any amendment, supplement or change in the regulations or district boundaries, there shall be a public notice and hearing thereon as provided by law. The notice of hearing shall be published in the official newspaper at least ten (10) days prior to the hearing. Such hearing may be held by the Town Board, by a committee of the Board, or by the Planning Board on request of the Town Board.

### **SECTION 60 - Adoption of Amendment**

After the public hearing, and referral to and report by the Planning Board, a majority vote of the members of the Town Board shall be required to amend the Zoning Ordinance except as described in Section 61 Protect Petition.

**SECTION 61 - Protect Petition**

If a protect against a proposed amendment, supplement or change is presented to the Town Board, duly signed and acknowledged by the owners of twenty (20) percent or more of the area of the land included in such proposed change, or by the owners of twenty (20) percent or more of the land immediately adjacent extending one hundred (100) feet there from, or by the owner of twenty (20) percent or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of three fourths of the Town Board.

## **ARTICLE XIV - MISCELLANEOUS**

### **SECTION 62 - Periodic Review of Zoning Ordinance**

From time to time, at intervals of not more than three (3) years, the Planning Board shall re-examine the provisions of this ordinance and the location of district boundary lines and shall submit a report to the Town Board, recommending such changes or amendments, if any, which may be desirable in the interest of public safety, health, convenience, necessity or the general welfare.

### **SECTION 63 - Validity**

The validity of any section or provision of this ordinance shall not invalidate any other section or provision thereof.

### **SECTION 64 - Interpretation**

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety, or the general welfare. Whenever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive, or that imposing the high standard shall govern.

### **SECTION 65 - When Effective**

This ordinance shall take effect in accord with Section 264 of the Town Law.

### **SECTION 66 - Fee Schedule**

[HISTORY: Adopted by the Florida Town Board January 20, 2014]

#### **A. Purpose**

The Town of Florida maintains a Fee Schedule associated with applications, permits, and reviews that may come before the municipality's boards and/or departments. The Fee Schedule is subject to change at the discretion of the Town Board. The most current Fee Schedule is available at the office of the Town Clerk.

#### **B. Payment of Fees**

1. All fees paid to the Town pursuant to the Fee Schedule are nonrefundable.
2. No application shall be deemed complete until the required fees have been paid.
3. Required fees shall be paid upon the submission of applications and appeals.
4. An applicant for any review, approval or permit shall not be authorized to obtain the same without first making payment of the required fee.
5. Expenses incurred by the Town shall be due upon receipt of an invoice.

6. No required fee shall be substituted for any other fee.

C. Costs of Review

1. The costs incurred by the Town for the review of an application by the Town designated engineer or designated other consultant in connection with a board's review of a proposed application shall be charged to the applicant. The board to which the application has been made shall obtain an estimate from any designated consultant for the amount sufficient to defray the cost of such services. The appropriate board shall collect from the applicant the estimated charges prior to final action by the Town.
2. Any portion of the estimated charges so collected which are not expended by the Town shall be returned to the applicant. Any such costs incurred by the Town beyond the estimated charges initially collected from the applicant shall be collected from the applicant prior to issuance of a final permit.