

Town of Throop Zoning Law



Cayuga County, New York

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Article I. General Provisions

Section 1.01 - Short Title

- A. This Law shall be known and cited as the "Town of Throop Zoning Law".

Section 1.02 - Purpose

- A. Such Law is made to promote the health, safety and general welfare of the community, and to lessen congestion in the streets, to secure safety from fire, flood, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid concentration of population, to facilitate the adequate provision of transportation, water, sewage, schools, and parks and other public requirements, under and pursuant to Article 16 of the Town Law of the State of New York, the size of buildings and other structures, the percentage of a lot that may be occupied, the side of the yards, the density of populations, and the use of buildings, structures and land for trade, industry, residence and other purposes are hereby restricted and regulated as hereinafter provided.

Section 1.03 – Conflict with State Laws

- A. To the extent that any provisions of this local law are inconsistent with the Town Law or the State of New York, Chapter 62 of the Consolidates Laws, Article 16, Sections 261 through 268, 274-a through 281, the Town Board of the Town of Throop hereby declares its intent to supersede those sections of the Town Law, pursuant to its home rule powers under Municipal Home Rule Law, Article 2, Section 10, et., Seq. of the Consolidated Laws of the State of New York.

Section 1.04 - Other Laws: Special Agreements

- B. In their interpretation and application, the provisions of this Law shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, comfort and general welfare. It is not intended by this Law to interfere with or abrogate or annul any easement, covenant, or other agreement between parties, provided however that when this Law imposes a greater restriction on the use of structures or standards than are imposed or required by any other statute, law, ordinance, rule, regulation or by any easement, covenant, or agreement, the provisions in the Law shall control. Where the requirement of another statute, law, ordinance, rule, or regulation, shall control the more restrictive shall govern.

Section 1.05 - Jurisdiction

- A. The regulations and provisions of this Law shall apply to and affect all lands in the Town of Throop.

Section 1.06 - Application of Law

- A. No building, structure or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, enlarged or structurally altered unless in conformity with the regulations of this Law. However, this Law shall not require any change to any building, structure or use legally existing at the effective date of this Law, or any amendment thereto; or to any building, structure, or use planned and construction started in compliance with existing laws prior to the effective date of the Law, or any amendment thereto, and completed within a one year period after the effective date of this Law, or any amendment thereto, except as provided in Article XIV.

Article II. Definitions

Section 2.01 - General

- A. Unless a contrary intention clearly appears, the following words and phrases shall have for the purpose of this Law the meanings given in the following clauses.
- B. For the purpose of this Law words and terms used herein shall be interpreted as follows:
1. Words used in the present tense include the future.
 2. The singular includes the plural and vice versa.
 3. The word "person" includes a corporation, a partnership, a firm, any other legally recognized singular entity, as well as the individual.
 4. The word "lot" included the word "plot" or "parcel".
 5. The term "shall" is mandatory.
 6. The term "may" is permissive.
 7. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, maintained, or designed to be occupied."
- C. Any word or term not defined herein shall carry its customary meaning. Words used in this Law may also carry technical meanings. Any term defined in the New York State Uniform Fire Prevention and Building Code that is not defined herein, shall be interpreted using the definition provided in the New York State Uniform Fire Prevention and Building Code.

Section 2.02 - Specific Definitions

- A. As used in this Law, the following terms shall have the meanings indicated:

ABANDONMENT - The voluntary, and intentional relinquishment of property or cessation of the use of property by the owner or lessee without any intention of transferring rights to another owner or of resuming the use of the property. "Abandonment" shall also mean to cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure. An "intent to resume" can be shown through continuous operation of a portion of the facility, maintenance of sewer, water, and other public utilities including electric service, or other outside proof of continuance such as bills of lading, delivery records, etc.

ABANDONED ITEM - Any item which has ceased to be used for its designed and intended purpose. The factors used in determining whether or not an item has been abandoned, include but are not limited to the following: (1) Present operability and functional utility of the item; (2) the date of last effective use of the item; (3) the condition of disrepair or damage; (4) the last time an effort was made to repair or rehabilitate the item; (5) the status of registration or licensing of the item; (6) the age and degree of obsolescence; (7) the cost of rehabilitation or repair of the item when compared to its market value; or (8) the nature of the area and location of the item.

ACCESSORY - The term applied to a building, structure, system, or use (except for an accessory dwelling unit) that (1) is customarily incidental and subordinate to the principle building or use served; (2) is subordinate in area, extent, or purpose to the principle building or use served; (3) contributes to the comfort, convenience, or necessity of occupants of the principle building or principle use; and (4) is located on the same parcel as the principle building or principle use.

ACCESSORY DWELLING UNIT – A second, subordinate residential dwelling unit located on the on the same parcel as a primary, single-family dwelling unit, either within the same building as the

single-family dwelling unit or in a detached building. It may be an adaptive reuse of an existing permanent detached accessory structure such as a barn, carriage house or garage or a new construction.

ADULT ORIENTED BUSINESS - Any use or substantial or significant part thereof in which is provided, in pursuance of a trade, calling business or occupation, goods, including books, magazines, pictures, slides, film, phonographic records, prerecorded magnetic tape and any other reading, viewing or listening matter, or services including activities, facilities, performances, exhibitions, viewings, and encounter, the principal feature or characteristics of which is the nudity or partial nudity of any person, or in respect of which the word "nude", "naked", "topless", "bottomless", "sexy" or any other word, picture, symbol or representation having the meaning or implication is used in any advertisement.

ADJACENT – Next to or within the close proximity of a specified location.

ADJOINING – Touching or sharing a common boundary. In the case of defining adjoining lots, properties, or parcels of land, adjoining may also refer to a lot or parcel of land that is directly across a street, private street, access easement, or right-of-way from the subject lot, property, or parcel of land.

AGRICULTURE - The use of land and resources for the production of food, fiber, fuel, and for agri-tourism activities in accordance with the accepted practices of land, nutrient, and farm management as defined by the New York State Department of Agriculture & Markets including but not limited to the raising, harvesting, and selling of crops; feeding (including grazing), breeding, managing, selling, or producing livestock, poultry, fur-bearing animals or honeybees; dairying and the sale of dairy products; any other aquacultural, floricultural, horticultural, silvicultural or viticultural use; animal husbandry, agricultural support industries, or by any combination thereof; and equestrian facilities.

1. **TILLING OF SOIL** – Commercial agricultural field and orchard uses including production of: field crops, flowers and seeds, fruits, grains, melons, ornamental crops, tree nuts, trees and sod, vegetables. Also includes associated crop preparation services and harvesting activities, such as mechanical soil preparation, irrigation system construction, spraying, crop processing, and sales in the field not involving a permanent structure.
2. **KEEPING OR RAISING OF ANIMALS** – An agricultural use involving the keeping and raising of customary farm animals, including but not limited to poultry, rabbits, horses, cows, goats, and sheep, outdoors in cages, coops, hutches, and enclosures.

AGRI-TOURISM - A form of commercial enterprise that links agricultural production and/or processing with tourism in order to attract visitors onto a farm or other agricultural business for the purposes of entertaining and/or educating the visitors and generating income for the farm or business owner including but not limited to: pumpkin picking patches, corn mazes, U-pick or Community Supported Agriculture (CSA) operations, petting and feeding zoos, hay rides, cut-your-own Christmas tree farms, demonstration farms, agricultural museums, living history farms, on-farm farmers' markets or road-side stands, and garden tours.

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

ANIMAL CARE FACILITY - Any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal diseases and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal. This term is also commonly referred to as an animal hospital or veterinary clinic.

ANIMAL KENNEL - Any structure, land, or combination thereof used, designed, or arranged for the commercial boarding, breeding or care of dogs, cats, pets, fowl, horses, or other domestic animals for profit, but exclusive of animals used for agricultural purposes.

ANIMAL SHELTER - A facility used to house or contain stray, homeless, abandoned, or unwanted animals and that is owned, operated, or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

ANIMAL TRAINING FACILITY - A primary or accessory use where domestic animals (for example, dogs and cats) are temporarily present for non-medical care (grooming or training programs) such as dog obedience; companion, seeing-eye, or rescue instruction, or competitive skills activities (hunting, retrieving, racing). This use may include ancillary sale of retail products and/or areas for shows. The definition excludes facilities for the boarding or breeding of animals.

APARTMENT - Means a dwelling unit in a multi-family dwelling or a mixed occupancy building.

APARTMENT BUILDING - A building arranged, constructed or designed to be occupied by three (3) or more families living independently of each other, with ownership vested in other than the occupants thereof.

AREA - The extent or measurement of a surface or piece of land.

1. **LOT AREA** - The total area contained within the property lines of an individual parcel of land, excluding any area within an existing street right-of-way.
2. **BUILDING AREA** - The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of covered porches, terraces, and steps.
3. **FLOOR AREA** - The sum of the areas of the several floors of a building, including areas used for human occupancy, as measured from the exterior faces of the walls. It does not include areas not used for human occupancy, such as unenclosed porches, attics, and basements that are not used for human occupancy.

BASEMENT - A story partly underground, but having one half or more of its height (measured from floor to ceiling) above the average level of the adjoining ground. A basement shall be counted as a story for determining the permissible number of stories.

BED AND BREAKFAST - An owner-occupied dwelling in which not more than five (5) sleeping rooms are provided or offered for overnight temporary accommodations for transient guests for compensation, and serving breakfast to guests only.

BENEVOLENT SOCIETY CLUB - Buildings and facilities, owned or operated by a corporation, association, person, or persons, for a social, educational, or recreational purpose, to which membership is required for participation, and not primarily operated for profit nor to render a service that is customarily carried on as a business.

BUILDING - A structure enclosed within exterior walls, built, erected and framed of a combination of materials, whether portable or fixed, having a roof, which is used or intended to be used for the shelter or enclosure of persons, animals or property.

1. **ACCESSORY BUILDING** - A subordinate building located on the same lot as the principal building and clearly incidental and subordinate to the principal building. Any portion of a principal building devoted or intended to be devoted to an accessory use is not an accessory structure.
2. **PRINCIPAL BUILDING** - A building in which is conducted, or is intended to be conducted, the principal use of the lot on which it is located.

BUILDING HEIGHT - A vertical distance measured from the mean elevation of the finished grade at the front of the building to the highest point of the structure.

BUSINESS - Any commercial venture designed to generate income.

BUILDING COVERAGE - The percentage of the plot or lot area that is covered by the building.

CAR WASH - Any building or premises, or portion thereof, the use of which is devoted to the business of washing automobiles for a fee, whether by automated cleaning devices or otherwise.

CANNABIS ON-SITE CONSUMPTION LOUNGE – Any building or structure where cannabis is sold for adult-use on-site consumption and has been granted an adult-use on-site consumption license as regulated by New York State Cannabis Law §77.

CANNABIS RETAIL DISPENSARY -A business licensed by the state, authorized to acquire, possess, sell, and/or deliver cannabis to adult consumers, as regulated by New York State Cannabis Law §72.

CELLAR - That enclosed space of a building that is partly or entirely below grade, which has more than half of its height, measured from floor to ceiling, below the average finished grade of the ground adjoining the building. A cellar shall not be considered in determining the permissible number of stories or square footage.

CHILD DAY CARE CENTER - A facility licensed by the state whose principal use is providing care for six or more children who do not reside in the facility, are present primarily during daytime hours, and do not regularly stay overnight; and which may include some instruction. A child day care center does not include a Family Day Care Home or Group Family Day Care Home as defined in New York State Social Services Law §390. See also New York State Social Services Law §390(12).

CODE ENFORCEMENT OFFICER - A person appointed by the municipal officers to administer and enforce this Law. Reference to the code enforcement officer may be construed to include building inspector, plumbing inspector, electrical inspector, and the like, where applicable.

CRAFT BEVERAGE INDUSTRY - Land and buildings used for the production and sale of craft beverages, including offering of tastings with or without an accessory restaurant use. Examples of craft beverage industries include wineries, breweries, cideries, and distilleries; and includes operations that are classified as either a “regular”, “farm”, “special”, or “micro” based operation by the NYS Alcohol and Beverage Control Law.

CULTURAL ESTABLISHMENT - A library, museum, or similar public or quasi-public use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts or sciences.

DECK - A horizontal platform projection from the main wall of a building without permanent covering.

DRINKING ESTABLISHMENT - Any building or structure which is not part of a larger restaurant and where alcoholic beverages are sold for on-site consumption. This includes bars, taverns, pubs, and similar establishments where any food service is subordinate to the sale of alcoholic beverages.

DWELLING - A house, apartment building, or other permanent building designed or used primarily for human habitation. A dwelling shall not be deemed to include a hotel, motel, or bed and breakfast. A dwelling is more specifically defined as the following:

1. **DWELLING UNIT** - A dwelling or portion thereof providing a complete self-contained residential unit, with living, sleeping, cooking and sanitary facilities within the unit, for use by one (1) family.
2. **MULTI-FAMILY DWELLING** - A residence designed for or containing three (3) or more dwelling units, and occupied by three (3) or more families, with separate living, sleeping, cooking, and sanitary facilities for each unit.
3. **SINGLE-FAMILY DWELLING** - A detached residence designed for or containing only one (1) dwelling unit, and occupied by only one (1) family.
4. **TWO FAMILY DWELLING** - A residence designed for or containing only two (2)

dwelling units, and occupied by only two (2) families, with separate living, sleeping, cooking, and sanitary facilities for each.

EASEMENT - A legal interest in land, granted by the owner to another person, which allows that person(s) the use of all or a portion of the owner's land, generally for a stated purpose including but not limited to access or placement of utilities.

EASEMENT, ACCESS - An easement created for the purpose of providing vehicular or pedestrian access to a property.

EDUCATIONAL FACILITY - An institution for the teaching of children or adults including primary and secondary schools, colleges, professional schools, dance schools, business schools, trade schools, art schools, and similar facilities.

EVENT VENUE - An establishment which is rented by individuals or groups to accommodate private functions including but not limited to, banquets, weddings, anniversaries, birthdays and other similar celebrations, which may take place in tents, gazebos, barns, open areas, or residential structures (including buildings). Such a use may or may not include: 1) kitchen facilities for the preparation or catering of food; 2) the sale of alcoholic beverages for on-premises consumption, only during scheduled events and not open to the general public; and 3) outdoor gardens or reception facilities.

FAMILY - One (1) or more persons occupying the premises and living as a single housekeeping unit as distinguished from a group occupying a boardinghouse, lodging house, club, fraternity or hotel.

FARM STAND - A structure or vehicle whose principal use is the seasonal display and sale of agricultural and value-added products; and may also involve the accessory sales of home-made handicrafts.

1. **AGRICULTURAL PRODUCTS** - Any agricultural or aquacultural product of the soil or water, including but not limited to fruits, vegetables, eggs, dairy products, grains and grain products, honey, nuts, preserves, maple sap products, apple cider and fruit juice.
2. **VALUE-ADDED AGRICULTURAL PRODUCT** - The increase in the fair market value of an agricultural product resulting from the processing of such product. Examples of value-added agricultural products include, but are not limited to honey, preserves, maple sap products, apple cider, fruit juice, fire logs, and baked goods.

FARM WORKER DWELLING - Dwelling units, including mobile homes, for use by full-time, temporary, or permanent employees, maintained exclusively for the occupancy of farm employees and their families in connection with any farm work or place where farm work is being performed, and the premises upon which they are situated.

FENCE - An artificially constructed barrier of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials erected to enclose, screen, or separate areas.

FINANCIAL INSTITUTION - An establishment where the principal business is the receipt, disbursement or exchange of funds and currencies, such as a bank, savings or loans association, trust company, credit union, or other business association, which is chartered under federal or state law.

FOOD PROCESSING ESTABLISHMENT - Any place which receives food or food products for the purpose of processing or otherwise adding to the value of the product for commercial sale. It includes, but is not limited to, bakeries, processing plants, beverage plants, and food manufactories. However, the term does not include: those establishments that process and manufacture food or food products that are sold exclusively at retail for consumption on the premises; those operations which cut meat and sell such meat at retail on the premises; or service food establishments, including vending machine commissaries.

1. **PROCESSING** - Means processing foods in any manner, such as by manufacturing, canning, preserving, freezing, drying, dehydrating, juicing, pickling, baking, brining, bottling, packing,

repacking, pressing, waxing, heating or cooking, or otherwise treating food in such a way as to create a risk that it may become adulterated if improperly handled.

FUNERAL HOME - A building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services used in the preparation of the deceased for burial; (b) the storage of caskets, funeral urns, and other related funeral supplies; (c) the storage of funeral vehicles; and (d) facilities for cremation.

GASOLINE STATION - A lot, including structures thereon or parts thereof, that is used for the sale of motor fuels dispensed from pumps and motor vehicle accessories and supplies. Permitted accessory uses may include car wash facilities and/or the retail sale of convenience items, including but not limited to snacks and beverages, and minor automotive supplies or liquids, provided such accessory uses are located indoors. Motor vehicle body work, major structural repair or painting by any means are not to be considered permitted accessory uses.

GREENHOUSE - A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of plants.

GREENHOUSE/NURSERY (COMMERCIAL) - An operation for the cultivating, harvesting, and sale of plants, bushes, trees, and other nursery items grown on site or established in the ground prior to sale, and for related accessory sales and uses.

HEALTH CARE FACILITY - A facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human diseases, pain, injury, deformity, or physical condition, including but not limited to a general hospital, diagnostic center, treatment center, rehabilitation center, extended care center, nursing home, intermediate care facility, outpatient laboratory, or central services facility serving one or more such institutions.

HOTEL - Any building containing six or more guest rooms which are used, rented, or hired for sleeping purposes by transient guests and with access to units primarily from interior lobbies, courts, or halls.

HOME OCCUPATION - A home occupation is an activity that is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit, for profit, conducted by a person or persons residing on the premises. The home occupation must be clearly incidental and secondary to the use of the dwelling for residential purposes. In particular, a home occupation includes the following or similar uses: accountant, billing service, or bookkeeper; answering service; architect or engineer; artist or graphic designer studio; author or writer; beauty or barber shop; business support service; chiropractor or massage therapist; consultant service; dressmaking or tailor shop; financial planner; foundation or not-for-profit (educational/philanthropic/research); handcrafts shop; lawyer; mailing service; management consultant; photographer; software engineer or developer; tutor and/or educational services (of not more than four (4) pupils simultaneously); web designer; word processing service; or taxidermy. The following uses are not considered to be home occupations: monument or stone cutting sales and service; welding services; shooting ranges using either guns or archery equipment; motor vehicle repair shop, motor vehicle sales/rentals, or motor vehicle detailing shop.

IMPERVIOUS SURFACE - Any roofed or other solid structure or material covering the ground through which water does not readily penetrate, including but not limited to concrete, oil and stone, tar or asphalt pavement, brick, plastic, or compacted gravel. A deck with spaced boards at least 1/8 inches apart, a roof eave, decorative stones, a patio or walkway with a permeable paving system, or any other man-made surface or structure which permits precipitation to flow through it shall not be considered impervious.

IMPERVIOUS SURFACE COVERAGE – The percentage of the plot or lot area that is covered by impervious surfaces.

INDUSTRIAL - Of, relating to, concerning, or arising from the assembling, fabrication, finishing, manufacturing, packaging, or processing of goods.

1. **LIGHT INDUSTRIAL** – Uses engaged in the manufacture, predominantly from previously prepared materials of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, or distribution of such products. Further, “light industrial” shall mean uses such as the manufacture of electronic instruments, pharmaceutical manufacturing, research and scientific laboratories, food processing establishments, or similar uses. “Light industrial” shall not include uses such as mining and extracting industries, petrochemical industries, rubber refining, primary metal, or related industries. Light industrial enterprises shall have limited external effects.

JUNKYARD - Any place of storage or deposit, whether in connection with another business or not, where two or more unregistered, old, secondhand motor vehicles, no longer intended or in condition for legal use on a public highway, are held, whether for the purpose of resale of used parts there from, for the purpose of reclaiming for use some or all of the material therein, whether metal, glass, fabric, or otherwise, for the purpose of disposing of the same or for any other purpose: such term shall include any place of storage or deposit for any such purposes of used parts or waste material from motor vehicles which, taken together equal in bulk two or more such vehicles provided, however the term junkyard shall not be construed to mean an establishment having facilities to process iron, steel or nonferrous scrap for sale for re-melting purposes.

LANDFILL - In accordance with New York State Codes, Rules and Regulations (NYCRR) Section 6 NYCRR Part 360.2, (b), (152) a “Landfill means a facility where waste is intentionally placed and intended to remain and which is designed, constructed, operated and closed to minimize adverse environmental impacts.”

LOT - A parcel of land, used or set aside, available for use as the site of one (1) principal structure or use and with its accessory structures thereto or for any other purpose, in one ownership and not divided by a street, nor including any land within the right-of-way of a public or private street upon which said lot abuts, even if the ownership to such way is the owner of the lot. A lot for the purpose of this Law may or may not coincide with a lot of record.

1. **CORNER LOT** - A parcel of land at the junction of and fronting on two (2) or more intersecting streets.
2. **THROUGH LOT** - An interior lot having frontage on two parallel or approximately parallel streets.
3. **DEPTH OF LOT** - The mean distance from the front lot line to its opposite rear lot line.
4. **LOT AREA** - The computed area contained within the lot lines.
5. **LOT COVERAGE** - The percentage of the plot or lot area that is covered by buildings or structures.
6. **LOT LINES** - any boundary line of a lot.
 - a. **LOT LINE, FRONT** - The line separating the lot from a street right-of-way.
 - b. **LOT LINE, REAR** - The lot line opposite and most distant from the front lot line.
 - c. **LOT LINE, SIDE** - Any lot line other than a front or rear lot line.
7. **LOT WIDTH** - The width of the lot between side lot lines, measured at the minimum front setback line as prescribed by the front setback regulations.

MINING/EXTRACTIVE INDUSTRY - The extraction or removal of minerals, including solids, such as sand, shale, soil, gravel, coal, and ores; liquids, such as crude petroleum; and gases, such as natural gases from the ground or the breaking of the surface soil, and exclusive of the process of

grading a lot preparatory to the construction of a building for which application for a building permit has been made. The term also includes quarrying; well operation; milling, such as crushing, screening, washing and flotation; and other preparation customarily done at the extraction site or as a part of the extractive activity. This term shall not include excavation or grading when conducted for farm improvement including tilling of soil for planting or harvesting crops; or the incorporation of manure or other fertilizers into the soil for agricultural purposes.

MIXED USE BUILDING – A building combining two or more different uses which are permitted in the zoning district in which the building is located.

MOBILE/MANUFACTURED HOME - As used in this Law, the terms manufactured home or mobile home are defined by the terms of the Residential Code of the New York State Uniform Fire Prevention and Building Code Chapter 2 Section R202 as adopted or hereafter amended. The terms "mobile home" and "manufactured home" shall not include any self-propelled recreational vehicle or Park Model Recreational Unit.

MOBILE OR MANUFACTURED HOME PARK - A contiguous parcel of land which has been planned, developed, and improved for the placement of manufactured homes for residential use with single control or ownership by an individual, firm, trust, partnership, public or private association, or corporation. Any grouping of two or more manufactured homes or manufactured home lots shall be considered a manufactured home park.

MOTEL - A building or series of buildings in which lodging is offered for compensation, and which is distinguished from a hotel primarily by reason of providing direct independent access to, and adjoining parking for, each rental unit.

MOTOR VEHICLE - All vehicles propelled or drawn by power other than muscular power originally intended for use on public highways or waterways, including but not limited to automobiles, motorcycles, trucks, trailers or boats.

MOTOR VEHICLE DETAILING SHOP - A facility which provides automobile-related services such as applying paint protectors, interior and exterior cleaning and polishing as well as installation of after-market accessories such as tinting, auto alarms, spoilers, sunroofs, headlight covers, and similar items. Engine degreasing or similar mechanical cleaning services shall not be included under this definition.

MOTOR VEHICLE REPAIR STATION - A lot, including structures thereon or parts thereof, that is used for engine repair, body work, frame straightening, painting, upholstering, steam cleaning, electric work, tune-ups and all other vehicle repair services.

MOTOR VEHICLE SALES/RENTALS - Any building, land area or other premises used for the display or sale of new or used motor vehicles, but not including any repair work other than warranty and other repair service conducted as an accessory use on such premises. Also includes facilities which provide for the storage and rental of motor vehicles on a regular basis by the general public. Typical uses include automotive dealership and auto rental agencies. No fuel sales shall be part of such an establishment.

NON-CONFORMING STRUCTURE OR LOT - A structure or lot that does not conform to a dimensional regulation prescribed by this Law for the district in which it is located or to regulation for signs, off street parking, off street loading or accessory building, but which structure or lot was in existence at the effective date of this Law and was lawful at the time it was established.

NON-CONFORMING USE - A use of a building or lot that does not conform to a use regulation prescribed by this Law for the district in which it is located, but which was in existence at the effective date of this Law and was lawful at the time it was established.

NURSING AND CONVALESCENT HOME - A facility where elderly, sick, infirmed, or convalescent persons are housed or provided lodging, furnished with meals and long-term nursing

care and related medical services on a 24-hour per day basis to two or more individuals. Such facility may be established for profit or nonprofit, and provides care for those persons not in need of hospital care.

OFFICE, PROFESSIONAL - The office of a member of a recognized profession maintained for the conduct of business. Recognized professions include but are not limited to the following categories: personal health services, such as physician, dentist, optometrist, clinic for outpatients, architect, attorney, realtor, insurance, writer, or accountant.

OPEN SPACE - Land and water areas retained for use as active or passive recreation areas, resource protection, buffer area, viewshed preservation, and/or other amenity in an essentially undeveloped state.

OUTDOOR SHOOTING RANGE - An area of land open to the general public for the safe discharging of firearms for the purpose of sport shooting or target practice. Excluded from this use type shall be general hunting and discharging of firearms on private property not available to the general public.

OUTDOOR STORAGE - The storage of personal or business property in any outdoor location not designated and approved as a retail sales display.

PATIO - A level, surfaced area directly adjacent to a principal structure at or within three (3) feet of the finished grade, without a permanent roof, intended for outdoor lounging, dining, and the like.

PARCEL - A legally described piece of land under single control or ownership created by a partition, subdivision, deed, or other instrument. Each parcel in the Town of Throop is assigned a Tax Map Number by the Cayuga County Office of Real Property Services.

PARKING SPACE - An area for the temporary parking of a motor vehicle, together with access aisles for maneuvering and passage to and from the public street.

PARK MODEL RECREATIONAL UNIT - A Park Model Recreational Unit is transportable and primarily designed for long-term permanent placement on a site. When set-up, park model units are to be connected to utilities which are necessary to operate fixtures and appliances, they are not self-contained as an RV. Because of its more permanent nature, Park Model Recreational Units may only be located in an approved Recreational Vehicle Park.

PERMIT - A document issued by the Code Enforcement Officer allowing a person to begin an activity provided for in this Law.

1. **BUILDING PERMIT** - A permit issued by the duly designated building official authorizing the erection, construction, reconstruction, alteration, repair, conversion, or maintenance of any building, structure, or portion thereof. Such a permit shall not be issued without the signature of the Code Enforcement Officer, certifying compliance with this Law.
2. **OCCUPANCY PERMIT** - The written approval of the Code Enforcement Officer certifying that a newly constructed structure, addition to an existing structure, or existing structure undergoing a change in use is in full compliance with the provisions of this Law and that such structure is habitable and in conformance with all applicable sections of the NYS Uniform Fire Prevention and Building Code. Also referred to as a Certificate of Occupancy.
3. **PERMIT, ZONING** - A statement, signed by the Code Enforcement Officer, setting forth that a building, structure, or use complies with the zoning law and the NYS Uniform Fire Prevention and Building Code and that the same may be used for the purposes stated on the permit. Also referred to as a certificate of zoning compliance.

PERMANENT - Designed, constructed, and intended to last, remain, or be used indefinitely.

PERMITTED USE - Any use which is or may be lawfully established in a particular district,

provided it conforms with all the requirements applicable to that district.

PERSONAL SERVICE ESTABLISHMENT - An establishment or place of business primarily engaged in the provision of frequent or recurrent needed services of a personal nature. Typical uses include, but are not limited to, beauty and barber shops, shoe repair shops, and tailor shops.

POND – A permanent or temporary body of still water, either naturally or artificially formed.

1. **RETENTION POND** - A stormwater holding area, either natural or manmade, which does not have an outlet to adjoining watercourses or wetlands other than an emergency spillway.

PORCH - A permanently covered but unenclosed projection from the main wall of a building that may or may not use columns or other ground supports for structural purposes.

PORTABLE STORAGE CONTAINER - A portable, weather-resistant receptacle, designed and used for the storage or shipment of household goods, wares, building materials or merchandise. This term shall not include roll-off containers or storage containers having storage capacity of less than 150 cubic feet. (Example of a roll-off container: city yard waste and debris container or open/unclosed containers).

PUBLIC SELF-STORAGE FACILITY - A land use characterized by the retail rental of storage space or units for holding personal or business items with direct customer access to the storage space. Examples include: mini-warehouse, public storage, or self-storage facilities; the use excludes temporary or portable units, such as “PODS” tractor-trailers or storage trailers (with or without wheels).

PUBLIC UTILITY, ESSENTIAL SERVICES - Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, stormwater drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings used or intended to be used for human habitation. This term does not include Solar Energy or Wind Energy Systems which are defined elsewhere in this Law.

RECREATION - The refreshment of body and mind through forms of play, amusement, or relaxation. The recreational experience may be active, such as boating, fishing, and swimming, or may be passive, such as enjoying the natural beauty of the shoreline or its wildlife. Recreation activities may take place indoors or outdoors.

1. **INDOOR RECREATION** - A commercial recreational land use conducted entirely within a building. Typical uses may include, but are not limited to an arcade, arena, bowling alley, community center, gymnasium, pool or billiard hall, skating rink, swimming pool, or tennis court.
2. **OUTDOOR RECREATION** - A commercial recreational land use conducted almost wholly outdoors. Typical uses may include, but are not limited to athletic fields, basketball courts, batting cages, golf driving ranges (not associated with a golf course), laser tag, miniature golf, motorized cart and motorcycle tracks, motorized model airplane flying facilities, paintball, swimming pools, tennis courts, and skateboard parks.
3. **RECREATIONAL CAMP** - Premises and facilities used or designed to be used occasionally or periodically for seasonal accommodation of individuals or members of groups or associations where outdoor recreational activities are provided. Facilities provided are typically rustic structures built as a permanent building, group of permanent buildings, tents, or other shelters (not including recreational vehicles or mobile homes). This definition does not include a Recreation Vehicle Park or Campground as defined elsewhere in this Law.

RECREATIONAL VEHICLE (RV) - A vehicle designed to be self-propelled or permanently

towed by another vehicle; and able to have movement on roadways without an oversized load permit (less than 8 ½ feet wide). A recreational vehicle is not designed or intended for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use. This definition includes vehicles such as travel trailers, motor homes, boats, house boats, and campers; but shall not include the term Park Model Recreational Unit as defined elsewhere in this Law.

RECREATIONAL VEHICLE PARK - A recreational vehicle park (RV Park) is a place where people with recreational vehicles can stay overnight, or longer, in allotted spaces known as "sites". A recreational vehicle park must have more than two (2) RV sites.

RELIGIOUS INSTITUTION - A building used as a church, place of worship, or religious assembly, with or without related accessory buildings or uses such as the following in any combination: rectory or convent, private school, meeting hall, offices for administration of the institution, licensed child or adult daycare, playground, or cemetery, where persons regularly assemble for religious purposes and related social events, which is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

RESTAURANT - A building or portion thereof where food and beverages, whether or not alcoholic, are sold to the public for consumption on the premises.

RETAIL BUSINESS ESTABLISHMENT - A place of business devoted in whole or in part to the sale, rental, or servicing of goods or commodities which are normally delivered or provided on the premises to a consumer. Typical categories of goods and services provided by retail business establishments include, but are not limited to artist and hobby supplies, auto supply stores, books, clothing and clothing accessories, food and liquor, flowers, furniture sales, garden supplies, gifts, hardware and paint, household goods and appliances, newspapers and stationery, pharmacy and medical supplies, sporting goods, and variety goods. The limited production of such goods, which are primarily intended for retail sale on the premises, shall be permitted provided that such production is a necessary adjunct of the retail establishment.

RETAINING WALL - A wall or terraced combination of walls used to retain or restrain lateral forces of soil or other materials and not used to support, provide a foundation for, or provide a wall for a building or structure.

RIGHT-OF-WAY - An area of land acquired by dedication or condemnation and intended for use as a public way to accommodate a transportation system. In addition to the roadway, a right-of-way normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities; and may also accommodate necessary public utility infrastructure (including but not limited to water lines, sewer lines, power lines, and gas lines.) In no case shall a right-of-way be construed to mean an easement.

SCHOOL, PUBLIC OR PRIVATE - An institution for the teaching of children or adults including primary and secondary schools, colleges, professional schools, dance schools, business schools, trade schools, art schools, and similar facilities.

SEQRA - Abbreviation for the State Environmental Quality Review Act adopted by New York State and administered by the New York State Department of Environmental Conservation (NYS DEC). This State Act requires local legislators and land use agencies to consider, avoid, and mitigate significant environmental impacts of the projects that they approve, the plans or regulations that they adopt, and the projects they undertake directly.

STATE ENVIRONMENTAL QUALITY REVIEW (SEQR) - The process that reviewing boards must conduct to determine whether proposed projects may have a significant adverse effect on the environment and, if they do, to study these impacts and identify alternatives and mitigate conditions to protect the environment to the maximum extent possible.

1. **ENVIRONMENTAL ASSESSMENT FORM (EAF)** - A form completed by an applicant to assist an agency in determining environmental significance of a proposed action. A properly

completed EAF must contain enough information to describe the proposed action, its location, purpose, and potential impacts on the environment.

2. **ENVIRONMENTAL IMPACT STATEMENT (EIS)** - A written draft or final document prepared in accordance with the SEQRA. An EIS provides a means for agencies, project sponsors, and the public to systematically consider significant adverse environmental impacts, alternatives, and mitigation strategies.

SETBACK - The least required horizontal distance between a lot line, and any structure on the lot measured at the shortest point, including terraces, porches, or any covered projection thereof, but excluding steps and ramps; except that the front setback shall be measured from the centerline of the road to the closest point of the building. All setback lines shall be drawn parallel to their respective lot lines regardless of the shape of the lot. All setback distances shall be measured at a 90° angle from the lot line, or centerline of the road for front setbacks, to the setback line. See Figures 1 and 2 below.

1. **FRONT SETBACK** - A setback, located at the front of a lot, measured from the centerline of the road. In the case of a corner lot, the setbacks of all sides of a structure abutting a street shall be measured from the centerline of the road and shall meet the requirements for front setbacks. In the case of through lots, the Planning Board shall determine the front and rear of a lot, and the setbacks shall be measured accordingly as front or rear setbacks. See Section 5.01, H of this law for the setback requirements for corner lots and through lots.
2. **REAR SETBACK** - A setback measured from the rear lot line.
3. **SIDE SETBACK** - A setback measures from a side lot line.

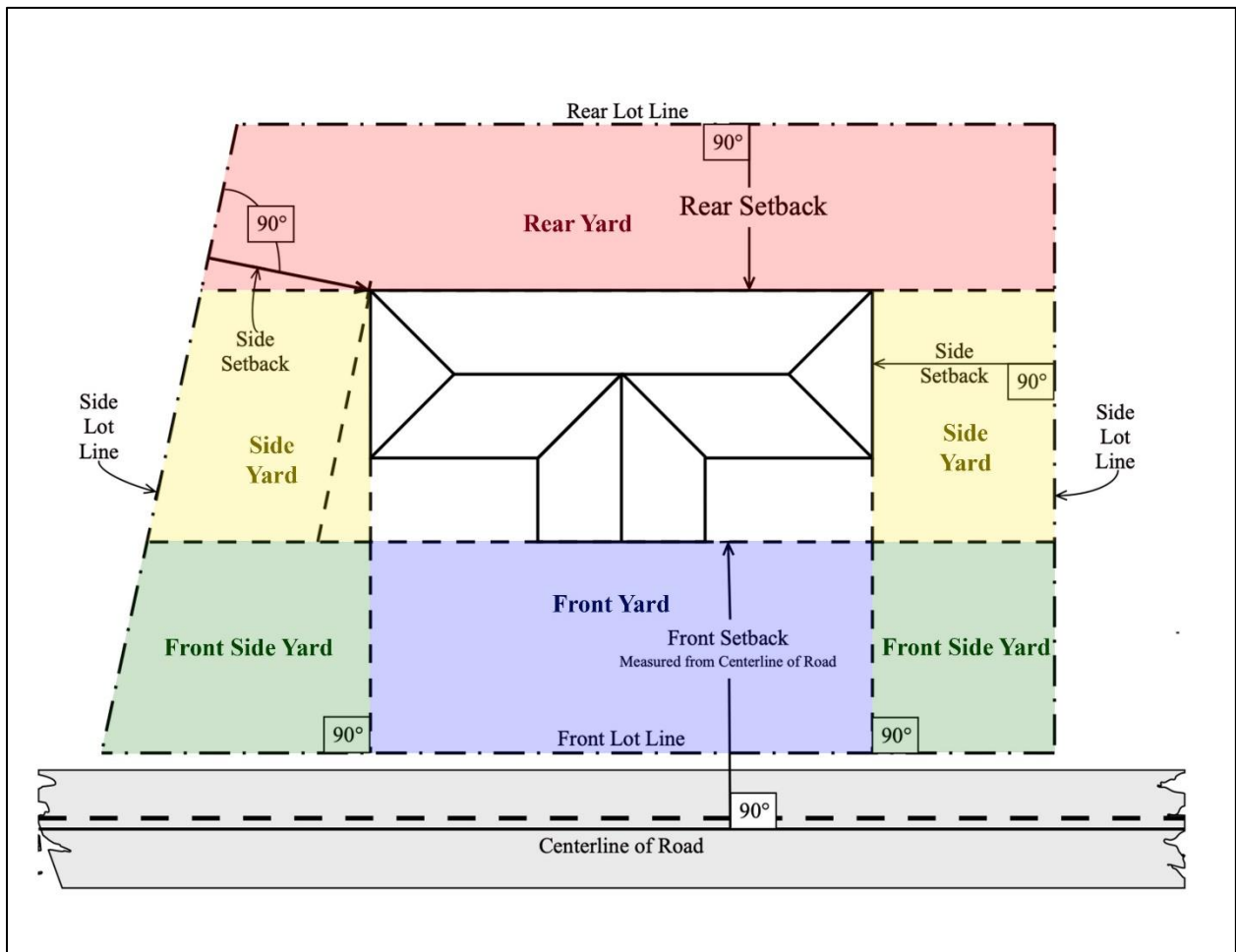


Figure 1: Building Setbacks, Yards, and Lot Lines Example 1

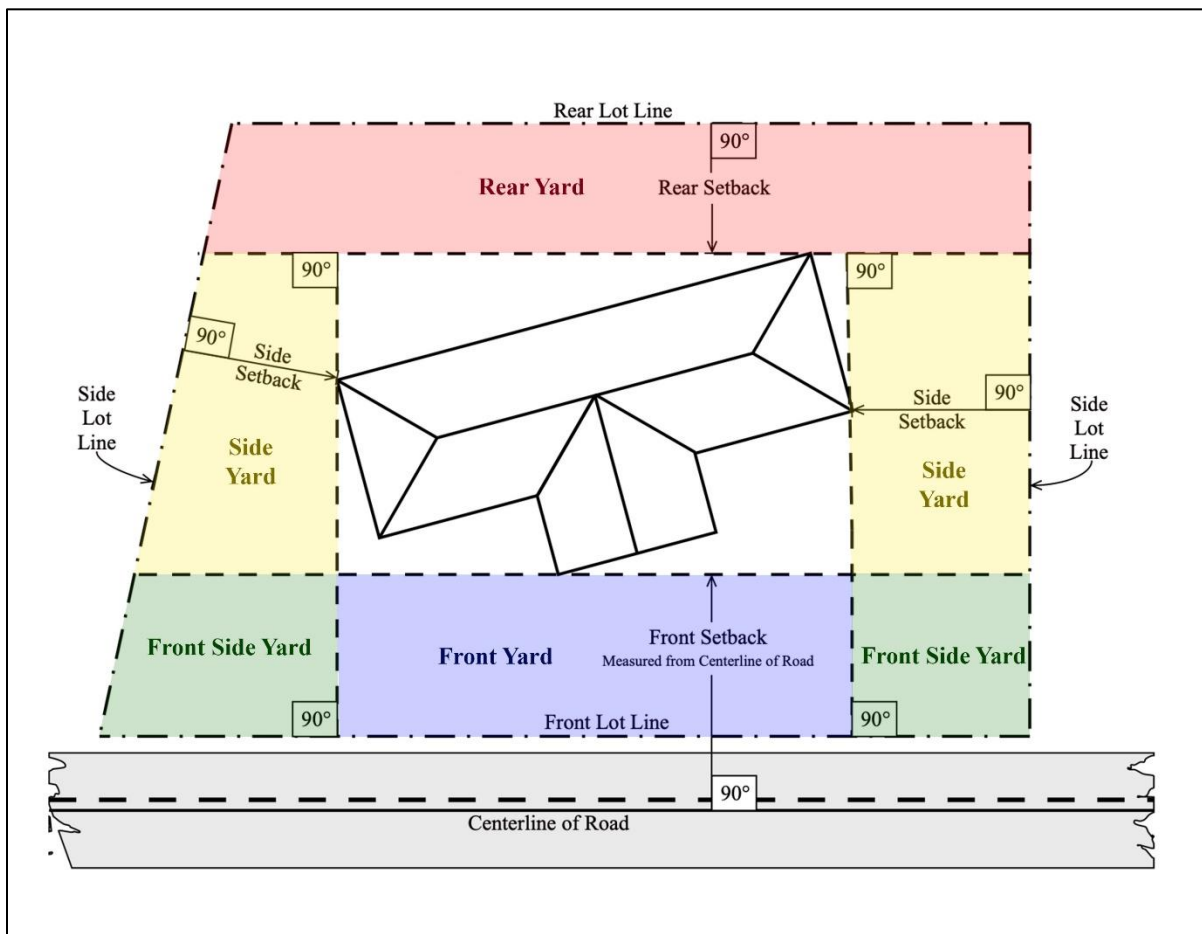


Figure 2: Building Setbacks, Yards, and Lot Lines Example 2

SEWER, PRIVATE - An "on-lot" septic tank disposal system generally providing for disposal of effluent for a single building lot as approved by the County Health Department.

SEWER, PUBLIC - A "public sewer" is any municipal or privately owned sewer system in which sewage is collected from buildings and piped to an approved sewage disposal plant or central septic tank disposal system. A public sewer may also be referred to; an "off-lot" or off-site" sewer.

SHOPPING CENTER - A shopping center is comprised of a group or groups of integrated structures designed as an architectural unit within which retail trade and related service activities shall wholly be conducted in an enclosed building that is planned, developed, owned and managed as a unit.

SHORT-TERM RENTAL - An accommodation for transient guests where, in exchange for compensation, a residential dwelling is rented for lodging for a period of time not to exceed 30 consecutive days. Such use may or may not include an on-site manager. For the purposes of this definition, a residential dwelling shall include all housing types and shall not include hotel, motels, bed-and-breakfasts, or inns.

SHORT-TERM RENTAL PROPERTY - A residential property in the Town of Throop used for short-term rental.

SIGHT DISTANCE TRIANGLE - An area of land at the intersection of streets, or a street and a driveway, within which nothing may be erected, planted, placed, or allowed to grow in a manner which will obstruct the vision of motorists entering or leaving the intersection.

SIGN – See Article X.

SITE - A lot or group of contiguous lots not divided by any alley, street, other right-of-way or the Town boundary line that is proposed for development in accordance with the provisions of this Law, and is in a single ownership or has multiple owners, all of whom join in an application for development.

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

SITE PLAN REVIEW - Authority delegated to the Planning Board by the Town Board, which enables the Planning Board to approve, approve with conditions, or disapprove the site development plans for all buildings or uses where site plan review is required.

SKETCH PLAN - The first step in the site plan review process, often referred to as a concept plan. Sketch plans shall be provided and reviewed in accordance with the requirements in Article VI of this Law.

SOLID WASTE COLLECTION POINT – In multi-family dwellings, commercial, industrial, and other nonresidential developments, the exterior location designation for garbage and recyclables collection by the town’s contractor or other authorized haulers.

SOLID WASTE FACILITY - A facility for the purpose of treating, burning, compacting, composting, storing, or disposing of solid waste. This definition is inclusive of solid waste transfer facilities but is not inclusive of solid waste collection points.

SOLID WASTE TRANSFER STATION - A solid waste facility at which solid waste collected from any source is temporarily deposited to await transportation to another solid waste facility.

SPECIAL USE PERMIT - A use which, because of its unique characteristics, requires special consideration in each case by the Planning Board to assure that the proposed use is in harmony with the purpose and intent of the zoning district in which it is proposed; is subject to and will meet certain prescribed criteria and standards along with any others required by the Planning Board; and will not adversely affect the neighborhood if such requirements are met.

STORAGE – The safekeeping of materials, property, or vehicles and equipment not in service. Storage areas shall not incorporate any other areas of project development such as parking areas, landscaping, and yard areas unless specifically authorized by the applicable land use regulations. Storage shall not be allowed as a principal use of a lot except in connection with warehousing, wholesale distribution as defined and regulated in this law.

STORY - The portion of a building enclosed between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between any floor and the ceiling next above it.

STREET - A public or private way used or intended to be used for passage or travel by motor vehicles.

STRUCTURE - A combination of materials assembled, constructed or erected at a fixed location on or in the ground or attached to something having location on the ground to form a construction that is safe and stable. This term includes but is not limited to billboards, buildings, decks, platforms, portable storage containers, and sheds. This term is exclusive of bird houses, boundary walls, fences, mailboxes, and lampposts.

1. **ACCESSORY STRUCTURE** - A structure (except for an accessory dwelling unit) that is accessory to the principle building or principle use of the lot on which said structure is located.
2. **HEIGHT OF STRUCTURE** - A vertical distance measured from the mean elevation of the finished grade at the front of the structure to the highest point of the structure.

3. **PRINCIPAL STRUCTURE** - A structure, the use or occupancy of which constitutes the main or principal use of the lot on which said structure is located.

SWIMMING POOL – Any structure, including a basin, chamber, or tank, which is intended for swimming, diving, recreational bathing, or wading and which contains or is designated or capable of containing water more than twenty-four (24) inches deep at any point. This includes in-ground, aboveground and on-ground pools; indoor pools; hot tubs; and wading pools; it does not include an ornamental reflecting pool or fish pond.

THEATER - An outdoor or indoor area, building, part of a building, structure, or defined area utilized primarily for showing motion pictures, or for dramatic, dance, musical, or other live performances and may also include food or beverage service as an accessory use.

UNNECESSARY HARDSHIP - A restriction on a property so unreasonable that it results in an arbitrary and capricious interference with basic property rights. Hardship relates to the physical characteristics of the property, not the personal circumstances of the owner or user, and the property is rendered unusable without the granting of a variance. For a use variance application, in accordance with NYS Town Law §267-b, 2, (b), the applicant must prove to the Zoning Board of Appeals that an unnecessary hardship exists for each of the four (4) criteria listed in said law and provided in Section 16.02 of this Law.

USE - Any activity, occupation, business or operation carried on or intended to be carried on, in a building or other structure or on a parcel of land.

1. **ACCESSORY USE** - A use located on the same lot with a principle use, and clearly incidental or subordinate to, and customary in connection with the principle use.
2. **PRINCIPAL USE** - The main or primary purpose for which a structure or lot is designed, arranged, or intended or for which it may be used, occupied, or maintained under this Zoning Law.
3. **SEASONAL USE** – A use conducted for six (6) consecutive months or less in a calendar year.

VARIANCE, AREA - In accordance with NYS Town Law §267, 1, (b) an "Area variance shall mean the authorization by the zoning board of appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations".

VARIANCE, USE - In accordance with NYS Town Law §267, 1, (a) "Use variance shall mean the authorization by the zoning board of appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations".

WAREHOUSING, WHOLESALE DISTRIBUTION - A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, excluding bulk storage of materials that are flammable or explosive or that present hazards or conditions commonly recognized as offensive. This use includes facilities with extensive warehousing, frequent heavy trucking activity, and/or open storage of material. This definition excludes public self-storage facilities.

WHOLESALE – A commercial activity characterized by the bulk storage, distribution and/or sale of merchandise to other retail, manufacturing, construction contracting, institutional or wholesale establishments. This use may include provision for related administrative offices, product showrooms, truck storage and parking areas. It excludes facilities for the storage and distribution of petroleum, natural gas or hazardous chemicals.

YARD - A yard is an open space, unobstructed from the ground up, on the same lot with a principal structure, extending along a lot line and inward to the principal structure.

1. **YARD, FRONT** - A yard extending the entire length of the front lot line and occupying the full width of the lot between the front lot line and the nearest point of the principal structure. In the case of a corner lot, the yards extending along all streets are front yards.
2. **YARD, FRONT SIDE** – The portion of the front yard encompassed by the front lot line, a side lot line, the front edge of the side yard, and a line drawn at a 90° angle from the front lot line to the point of intersection of the front setback line and side setback line.
3. **YARD, REAR** - A yard extending the entire length of the rear lot line and occupying the full width of the lot between a rear lot line and the nearest point of the principal structure.
4. **YARD, SIDE** - A yard extending from the front yard to the rear yard and lying between a side lot line and the nearest point of the principal structure. In the case of a lot having no street frontage or a lot of odd shape, any yard that is not a front yard or a rear yard shall be considered a side yard.

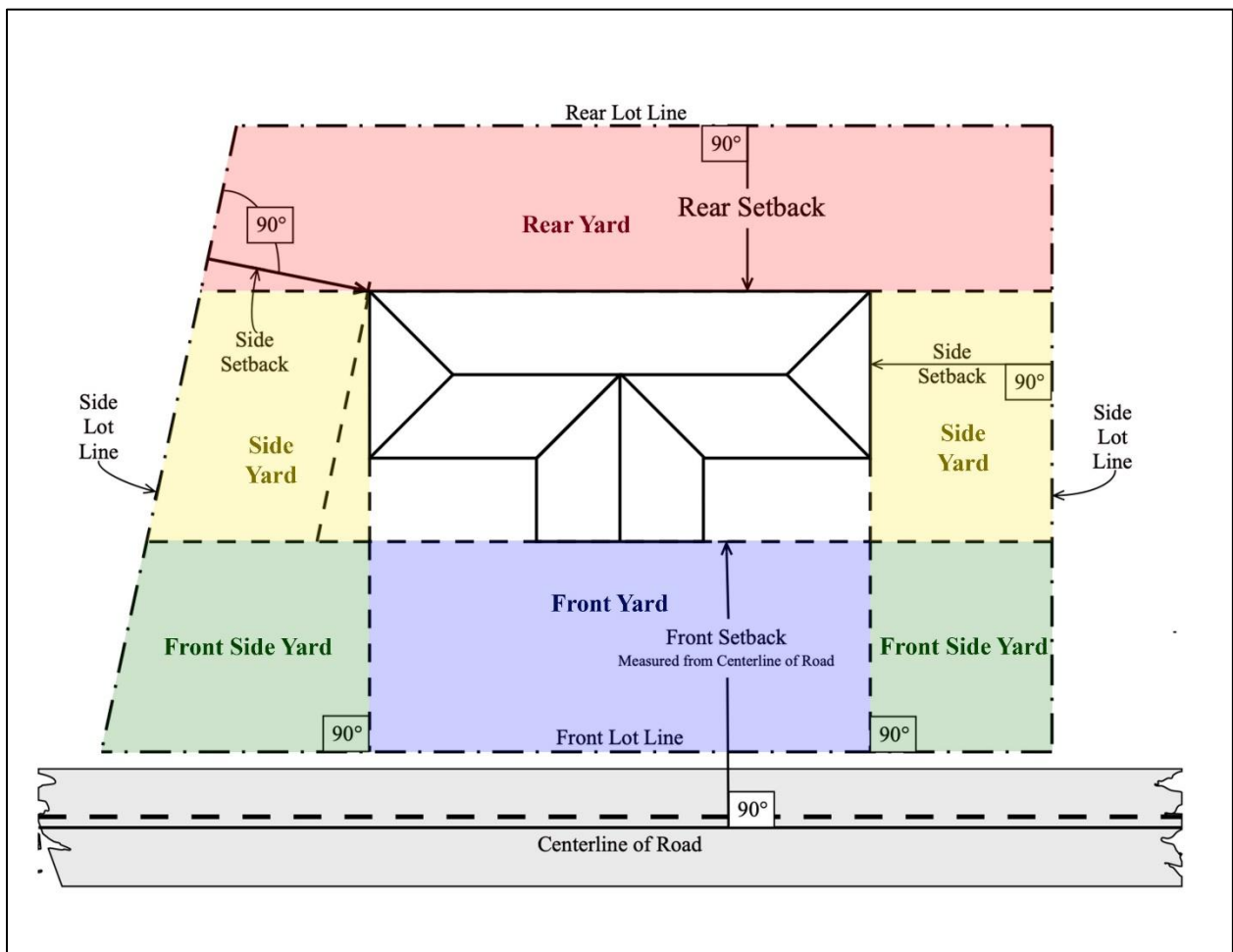


Figure 1: Building Setbacks, Yards, and Lot Lines Example 1

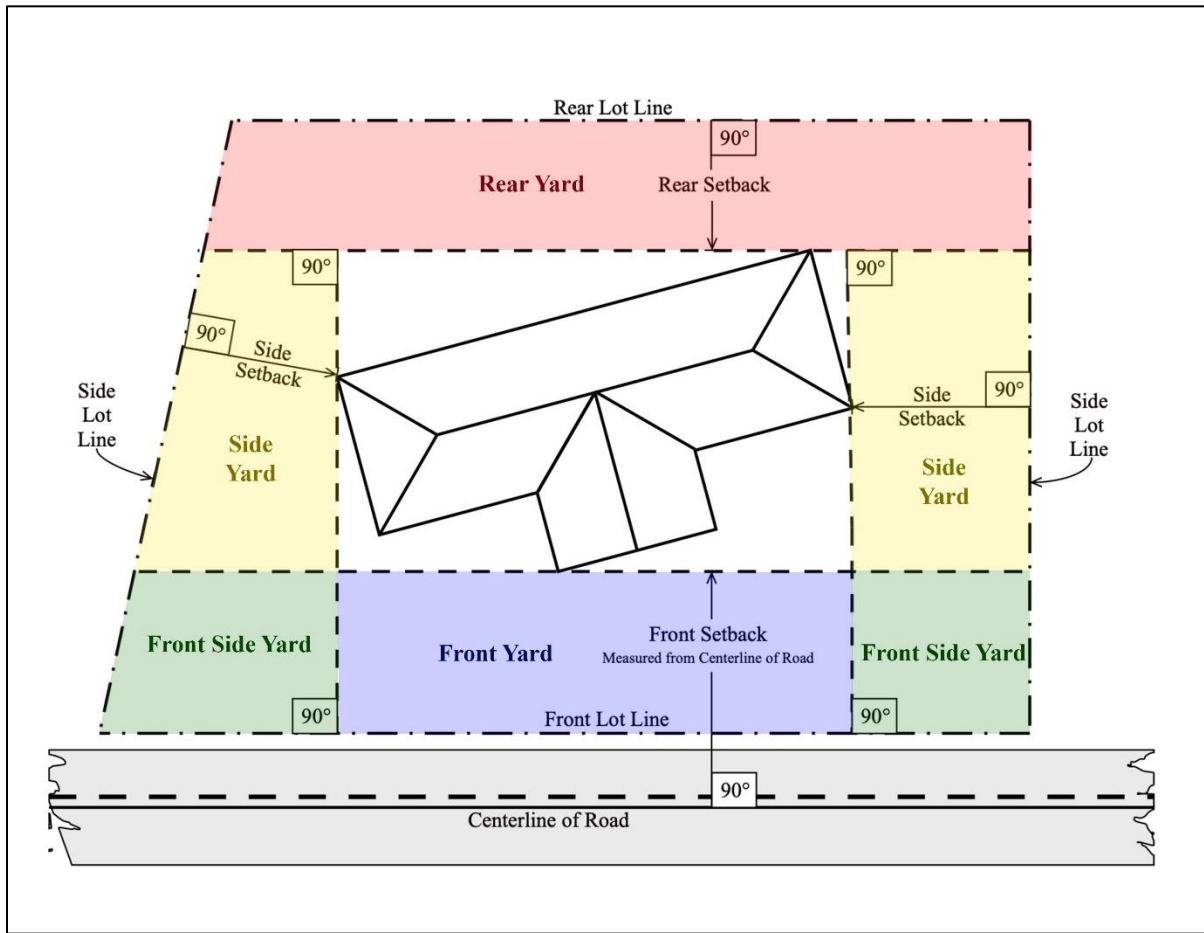


Figure 2: Building Setbacks, Yards, and Lot Lines Example 2

Article III. Establishment of Districts

Section 3.01 – Description of Districts

For the purpose of promoting the public health, safety, morals and general welfare of the Town of Throop, the Town is hereby divided into the following types of zoning districts:

- A. **Agricultural Zoning District (A)** - The purpose of the Agricultural Zoning District is to promote the continued use of the land for agricultural production of all scales. The intent of the Agricultural Zoning District is to protect the rural agrarian character of the Town by limiting the number of new housing permits issued for non-farm related worker housing; and by requiring additional criteria for subdivisions. While some new growth is expected over time, new single-family housing development should primarily occur in the Medium Density Residential Zoning District or the Low Density Residential Zoning District.
- B. **Low Density Residential Zoning District (R1)** - The purpose of the Low Density Residential Zoning District is to allow for future residential development while still preserving the rural character of the Town. The intent of the Low Density Residential Zoning District is to provide for future single-family residential development in areas that are already primarily developed as low density single-family neighborhoods mixed with agricultural uses. This district has larger minimum lot sizes than the Medium Density Residential Zoning District and multi-family housing will only be permitted with an approved special use permit.
- C. **Medium Density Residential Zoning District (R2)** - The purpose of the Medium Density Residential Zoning District is to allow for future residential development in areas adjacent to the Hamlets and in existing areas with a higher density of residential development. The intent of the Medium Density Residential Zoning District is to provide for future residential development in areas that are either currently served by water or that have already been experiencing a pattern of more dense development than elsewhere in the Town. This district will also provide for a greater mix of housing types and densities leading to more housing choices for residents of all ages and income levels.
- D. **Commercial Zoning District (C)** - The purpose of the Commercial Zoning District is to provide for future commercial development that is compatible with existing commercial development within the town. The intent of the Commercial Zoning District is to allow commercial development only in areas currently developed as commercial where it would be the most appropriate for future commercial uses. Commercial corridors or larger development areas beyond what is currently established is not compatible with the preservation of the rural character of the Town and therefore will not be permitted.
- E. **Owasco River Protection Zoning District (O)** - The purpose of the Owasco River Protection Zoning District is to protect some of the most valuable natural resources in the Town in the areas located along the Owasco River. The intent of the Owasco River Protection Zoning District is to limit new development in the area along the Owasco River of the Town that is environmentally sensitive, highly susceptible to seasonal flooding, and important to the community for their unique scenic qualities.

Section 3.02 - Zoning Map

Said districts are bounded as shown on a map entitled "Zoning Map of the Town of Throop", adopted and certified by the Town Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this Law. See Appendix I for the Zoning Map.

Section 3.03 - 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:

- A. Where district boundaries are indicated, as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such as center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries.
- B. Where district boundaries are so indicated, that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- C. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed at being parallel thereto and at such distance there from as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
- D. In case of further uncertainty as to the true location of a zoning district boundary line in a particular instance, the Zoning Board of Appeals shall determine the location of such boundary.

Article IV. Use Regulations

Section 4.01 – Applicability of Regulations

Except as provided by law or in this Law, in each district no building, structure or land shall be used or occupied except for the purposes permitted in Section 4.05, Table 1 and for the zoning districts so indicated.

Section 4.02 – Permitted Uses

A. The following describes the categories of uses as outlined in Section 4.05, Table 1:

1. Denoted by “**P**”: Uses permitted by right with permits required in accordance with Article XV.
2. Denoted by “**SC**”: Uses permitted by right, but subject to Special Conditions, as defined in Section 4.06. Review by the Code Enforcement Officer is required before a permit will be issued.
3. Denoted by “**SP**”: Uses permitted upon issuance of a Special Use Permit subject to review and approval by the Planning Board and subject to the requirements of Article VII.
4. Denoted by “*****”: Uses that require Site Plan Review subject to the requirements of Article VI as part of the approval process.
5. Denoted by “**N**”: A use that is not permitted in a particular zoning district.

Section 4.03 – Uses Are Subject to Other Regulations

All uses shall be subject in addition to use regulations, to such regulations of yard, lot size, lot width, building area, provisions for off-street parking and loading, and to such other provisions as are specified in other Articles hereof.

Section 4.04 – Prohibited Uses

Any use not expressly stated as permitted in Section 4.05 is prohibited in the Town of Throop.

Section 4.05 – Use Table

Table 1: Town of Throop Zoning Law Use Table						
Key	P = Permitted by Right	SC = Special Conditions	SP = Special Permit	N = Not Permitted		* Site Plan Review Required
Use Category	Zoning District					Section Reference
	A	R1	R2	C	O	
Accessory Structure	SC	SC	SC	SC	SC	§4.06 A, 1 ; §4.06 A, 11
Accessory Dwelling Unit	SP*	SP*	SP*	N	N	§7.06 A, 1
Adult Oriented Business	N	N	N	SP*	N	§7.06 A, 2
Agriculture ¹	P	N	N	N	N	
Agriculture, Keeping or Raising of Animals	P	SC	SC	P	N	§4.06 A, 2
Agriculture, Tilling of Soil	P	P	P	P	N	
Agri-tourism	P	N	N	P	N	
Animal Care Facility	SP*	N	N	P*	N	§7.06 A, 3

Table 1: Town of Throop Zoning Law Use Table

Key	P = Permitted by Right	SC = Special Conditions	SP = Special Permit		N = Not Permitted		* Site Plan Review Required
Use Category		A	R1	R2	C	O	Section Reference
Animal Kennel or Shelter		SP*	N	N	SP*	N	§7.06 A, 3
Animal Training Facility		SP*	N	N	SP*	N	§7.06 A, 3
Bed & Breakfast		SC	SC	SC	SC	N	§4.06 A, 3
Benevolent Society Club		N	N	N	P	N	
Cannabis On-Site Consumption Lounge		N	N	N	SP*	N	§7.06 A, 4
Cannabis Retail Dispensary		N	N	N	SP*	N	§7.06 A, 4
Car Wash		N	N	N	P*	N	
Cemetery		P	N	N	P	SC	§4.06 A, 11
Child Day Care Center		SP*	SP*	SP*	P	N	§7.06 A, 5
Commercial Building Located Outside of the Commercial Zoning District		SP*	SP*	SP*	N	N	§7.06 A, 6
Craft Beverage Industry		P*	N	N	P*	N	
Cultural Establishment		N	N	N	P*	N	
Drinking Establishment		N	N	N	P*	N	
Dwelling, Farm Worker		SC	N	N	N	N	§4.06 A, 6
Dwelling, Multi-Family		N	N	SP*	N	N	§7.06 A, 7
Dwelling, Single Family		P	P	P	N	N	
Dwelling, Temporary/Emergency		SC	SC	SC	SC	N	§4.06 A, 4
Dwelling, Two Family		P*	SP*	P*	N	N	
Educational Facility		SP*	N	N	P*	N	
Event Venue		N	N	N	SP*	N	§7.06 A, 8
Farm Stand		SC	SC	SC	SC	SC	§4.06 A, 5; §4.06 A, 11
Financial Institution		N	N	N	P*	N	
Funeral Home		N	N	N	P*	N	
Gasoline Station		N	N	N	SP*	N	§7.06 A, 9
Greenhouse/Nursery (Commercial)		P	N	N	P	N	
Health Care Facility		N	N	N	P*	N	
Home Occupation		SC	SC	SC	SC	N	§4.06 A, 7
Hotel		N	N	N	P*	N	
Industrial, Light		N	N	N	SP*	N	§7.06 A, 10
Junkyard		N	N	N	N	N	
Manufactured Home Park		N	N	SP*	SP*	N	§7.06 A, 11
Mining/Extractive Industry		SP*	N	N	N	N	§7.06 A, 12

Table 1: Town of Throop Zoning Law Use Table						
Key	P = Permitted by Right	SC = Special Conditions	SP = Special Permit	N = Not Permitted	* Site Plan Review Required	
Use Category	Zoning District					Section Reference
	A	R1	R2	C	O	
Mixed-Use Building	N	N	N	P*	N	
Motel	N	N	N	P*	N	
Motor Vehicle Repair Station	N	N	N	SP*	N	§7.06 A, 13
Motor Vehicle Sales/Rentals	N	N	N	SP*	N	§7.06 A, 13
Motor Vehicle Detailing Shop	N	N	N	SP*	N	§7.06 A, 13
Nursing and Convalescent Home	SP*	SP*	SP*	P*	N	§7.06 A, 14
Office, Professional	N	N	N	P*	N	
Outdoor Shooting Range	SP*	N	N	N	N	§7.06 A, 15
Personal Services Establishment	N	N	N	P*	N	
Portable Storage Containers, Temporary	SC	SC	SC	SC	N	§4.06 A, 8
Portable Storage Containers, Long Term	SP*	SP*	SP*	SP*	N	§7.06 A, 16
Public Utility, Essential Services	P	P	P	P	SC	§4.06 A, 11
Recreation, Indoor	N	N	N	SP*	N	
Recreation, Outdoor / Recreational Camp	SP*	N	N	P*	SC	§4.06 A, 11; §7.06 A, 17
Recreational Vehicle, Habitation	SC	SC	SC	N	N	§4.06 A, 9
Recreational Vehicle, Park	SP*	N	N	N	N	§7.06 A, 18
Religious Institution	SP*	SP*	SP*	P*	N	
Restaurant	N	N	N	P*	N	
Retail Business Establishment	N	N	N	P*	N	
Short-Term Rental	SC	SC	SC	N	N	§4.06 A, 10
Solar Energy System, Accessory Scale – Free Standing/Ground Mounted	P*	P*	P*	P*	N	Article XI
Solar Energy System, Accessory Scale – Rooftop and Building Mounted	P	P	P	P	N	Article XI
Solar Energy System, Utility Scale	N	N	N	N	N	Article XI
Solid Waste Facility	N	N	N	N	N	
Telecommunication Facilities (Cell Towers)	SP*	N	N	N	N	Article XIII
Theater	N	N	N	SP*	N	
Warehousing, Wholesale Distribution	SP*	N	N	SP*	N	§7.06 A, 20
Wind Energy System, Large	N	N	N	N	N	Article XII

Table 1: Town of Throop Zoning Law Use Table

Key	P = Permitted by Right	SC = Special Conditions	SP = Special Permit			N = Not Permitted	* Site Plan Review Required
			A	R1	R2		
Use Category		Zoning District					Section Reference
		A	R1	R2	C	O	
Wind Energy System, Small		SP*	N	N	N	N	Article XII
Wind Energy System, Very Small		P	P	N	P	N	Article XII

¹ Agriculture – Agriculture is only permitted in the agricultural zone, with the exception of the sub uses listed in the table (Keeping or Raising of Animals and Tilling of Soil)

Section 4.06 – Special Conditions

A. No zoning permit shall be issued by the Code Enforcement Officer for any land use or activity listed in Section 4.05, Table 1 as having special conditions applicable (SC) until the Code Enforcement Officer is satisfied that the applicable regulations set forth in Section 4.06 have been complied with or that a variance to such regulations has been duly granted. The Code Enforcement Officer shall issue a Zoning Permit for the following uses only when satisfied that applicable special conditions, as set forth in this Section 4.06, have been complied with, in addition to all other requirements of this Law.

1. Accessory Structures:

- a. Accessory structures attached to the principal building shall comply in all respects with the requirements of this Law applicable to the principal building.
- b. Accessory structures that are not attached to a principal structure may be erected in the accordance with the following restrictions:

i. Dimensional Requirements.

(A) Accessory structures shall meet the following requirements in the Low Density (R1) and Medium Density (R2) Residential Districts:

- (1) Accessory structures shall be setback a minimum of ten (10) feet from a side or rear lot line.
- (2) Accessory structures shall not exceed twenty one (21) feet from the highest point on the ground on the side nearest the street to the peak of the structure.

(B) Accessory structures in the Agricultural (A) and Commercial (C) Districts shall comply with the height and setback requirements applicable to the principal building as required in Section 5.01, Table 2. Exemptions to maximum building height, as listed in Section 5.01, F shall also apply.

(C) Accessory structures located in any Zoning District shall meet the following requirements:

- (1) Accessory structures shall be located a minimum of ten (10) feet from the principal structure.
- (2) No accessory structure shall be located in the front yard, however accessory structures may be located in the front side yard. Accessory structures located in the front side yard shall meet the minimum front setback requirement for the principal structure of the lot, as required in Section 5.01, Table 2, in addition all other

- requirements of this section. Exception: Signs and farm stands, as regulated elsewhere in this law, may be located in the front yard.
- ii. An unattached accessory structure shall not be a building, structure, or other assemblage of materials designed for, or customarily used as, a principal structure allowed under this Law.
 - iii. Corner lots shall maintain safe sight triangles as required in Section 5.01 of this Law.
 - iv. The combined coverage of all accessory structures along with the principal building or structure shall not exceed the maximum lot coverage as required in Section 5.01, Table 2.
2. Agriculture, Keeping or Raising of Animals. The following regulations apply to the Keeping or Raising of Animals in the Residential Zoning Districts (R1 and R2):
- a. Animal Classifications. Farm animals shall be classified as follows:
 - i. Large animals: horses, mules, donkeys, cows, oxen, sheep, goats, alpacas, llamas, hogs, and other customary farm animals of comparable size.
 - ii. Small animals: Fowl or poultry (chickens, ducks, geese, turkeys, pheasants, quail, and other customary fowl), rabbits, mink, and other customary farm animals of comparable size.
 - b. Enclosures and Fences. An outdoor open-air enclosure or fenced area shall be constructed and installed to prevent animals permitted in this section from leaving the property they are housed on. Free-range animals which leave the property or enter a road right-of-way shall be prohibited.
 - c. The property owner shall maintain a ten (10) foot vegetative buffer strip concealing all areas used for keeping animals from adjoining residential properties. The maintenance of the buffer strip shall be the continuing obligation of the property owner.
 - d. Setbacks. No animals shall be kept in required setback areas for the principal structure on the subject parcel.
 - e. Slaughtering of Animals. Fowl, poultry, rabbits, and similar small animals may be slaughtered on site only inside a garage or other building, and only for the use by the occupants of the premises and not for sale. No other animal may be slaughtered on site.
 - f. Additional requirements applicable in the Low Density Residential Zoning District (R1):
 - i. Use will be limited to one (1) large or five (5) small animals per each two (2) acres.
 - g. Additional requirements applicable in the Medium Density Residential Zone (R2):
 - i. Use will be limited to five (5) small animals per each two (2) acres. No large animals shall be permitted.
 - ii. The keeping of roosters is prohibited.
 - h. The keeping or raising of animals shall not include the keeping of household pets which shall be permitted in all districts without a zoning permit.
 - i. Enforcement. The Code Enforcement Officer (CEO) is required to inspect any property upon receipt of a written complaint regarding the keeping of animals permitted in this Section. If the CEO finds the conditions to be in violation of any of

the standards set forth herein, the CEO will follow the procedures in Section 15.07 of this law for notice of violations.

3. Bed and Breakfast. In order to protect the residential character of the district in which it is located, a Bed and Breakfast facility shall be limited by the following criteria:
 - a. A Bed and Breakfast shall only be permitted in a single-family, detached dwelling.
 - b. The residential character of the dwelling shall be preserved and no structural alterations, construction features, or site features of a nonresidential nature shall be incorporated. No accessory buildings shall be used for lodging.
 - c. The owner/operator of the Bed and Breakfast shall live full-time on the premises.
 - d. No more than two non-residents of the premises shall be engaged as employees of the operation.
 - e. A Bed and Breakfast shall have a maximum of five guest rooms.
 - f. The maximum length of stay for any guest is 14 consecutive calendar days.
4. Dwelling, Temporary or Emergency:
 - a. Temporary Dwelling. A zoning permit may be issued for one interim dwelling located on the site of the construction of a one- or two-family dwelling for which a valid zoning and building permit is in effect; All interim structures shall be removed within 60 days of the issuance of a certificate of compliance.
 - b. Emergency Dwelling:
 - i. In the event that a dwelling is rendered uninhabitable by fire, flood, or similar natural or manmade disaster, a zoning permit may authorize the placement, upon the lot where said dwelling is located, of an emergency dwelling.
 - ii. An emergency dwelling shall meet the following specific standards:
 - (A) Permitted only to meet a documented emergency need.
 - (B) The maximum length of time such an emergency residence may be on a lot is one year. An extension of one year making a total period of time of two years from the initial permit may be granted by the Zoning Board of Appeals in cases of documented hardship. Only a single extension may be granted and the hardship must result from circumstances beyond the control of the applicant which prevents the applicant from complying with the requirements of this section.
 - (C) An emergency dwelling must have running water and must be connected to a totally enclosed septic system or public sewer.
 - (D) Such dwelling shall be removed upon the compellation of the repair or replacement of the principal dwelling the dwelling.
 - (E) No certificate of occupancy shall be issued until the emergency dwelling is removed from the lot.
 - (F) No variance to the requirements of this section, except as outlined in part b above may be granted.
5. Farm Stands. A farm stand shall be permitted as a seasonal accessory use related to an agricultural activity occurring on either a farm or a non-farm parcel, subject to the following regulations:
 - a. The farm stand will be setback a minimum of twenty (20) feet from any street line.

- b. A vehicle not exceeding six thousand (6,000) pounds net weight may be considered a permitted farm stand. However, a vehicle, or any part thereof, customarily known as a tractor/trailer or any containerized storage unit shall not be permitted.
 - c. Non-Farm Parcels: The total floor area of the stand shall not exceed one hundred fifty (150) square feet. The farm stand shall be solely for the seasonal display and sale of agricultural and value-added products grown or produced on the premises.
 - d. Farm Parcels: The total floor area of the stand shall not exceed four hundred (400) square feet. Farms may seek relief from this requirement through an area variance. The applicant may demonstrate a need for an area variance for additional space based upon the needs of existing farm operations. The farm stand shall be solely for the seasonal display and sale of agricultural and value-added products grown or from other farms. However, they may not resell any products previously bought at wholesale or retail establishments.
6. Farm Worker Dwelling. Farm worker dwellings are permitted in the Agricultural (A) Zoning District subject to the following conditions:
- a. All dwellings shall be located on the same lot or lots owned by the farm operation. The land dedicated on the lot to the Farm Worker Dwellings shall be illustrated in the application.
 - b. Dwellings shall meet the same setback requirements as the principal structure for the lot. See Section 5.01 for dimensional standards.
 - c. Structures shall have a minimum of thirty (30) feet of separation from one another.
 - d. Provisions shall be made for adequate water and sewage disposal facilities, in accordance with local, county, and state laws.
 - e. The Town may require a notarized statement from the property owner to certify that the occupants in the Farm Worker Housing are employed on the farm.
7. Home Occupation. Home occupations, as defined in Article II, Section 2.02, are permitted, subject to the regulations included herein:
- a. Any home occupation which does not draw the public shall not require a Zoning Permit.
 - b. Any home occupation which does draw the public shall be permitted after a completed Home Occupation Business Intent Form is submitted to the Town Clerk and the Code Enforcement Officer approves a Home Occupation Zoning Permit. In order to be granted a Zoning Permit, the following conditions shall be met:
 - i. The home occupation may be conducted in the main building or in an accessory building, but in either case shall not occupy a floor area greater than that of twenty-five (25%) percent of the area of the first floor of the main building or five hundred (500) square feet, whichever is less.
 - ii. There shall be no commercial display visible from the street or advertising, except one (1) small professional nameplate or announcement sign not to exceed two (2) square feet in area, subject to the sign regulations in Article X of this Law.
 - iii. The home occupation shall be carried on only by the owner-occupant of the dwelling unit and/or members of the immediate family residing in the dwelling unit, plus not more than one (1) additional non-residential employee.
 - iv. There shall be no outdoor storage of property associated with the home business.

- v. No external alterations, additions, or changes shall be permitted in order to accommodate or facilitate the home occupation.
 - vi. No articles shall be sold or offered for sale except such as may be produced on the premises.
 - vii. No repetitive servicing by truck for supplies and materials shall be permitted.
 - viii. No more than two (2) clients shall be scheduled at any one (1) time.
 - ix. No on-street parking is permitted. Off-street parking shall be provided for up to two (2) clients pursuant to the requirements of this section.
8. Portable Storage Containers, Temporary.
- a. Portable storage containers may be used for the temporary on-site storage of personal property owned, operated or otherwise controlled by the lessee on real property owned, operated or otherwise controlled by the lessee within the permitted time period until such portable storage container is removed.
 - b. A temporary portable storage container shall not remain on a parcel in excess of ninety (90) consecutive days, and shall not be placed on any one parcel in excess of ninety (90) days in any calendar year.
 - c. The lessee of the portable storage container shall obtain a zoning permit.
 - d. For residential and agricultural uses, the total volume of all portable storage containers shall not exceed 3,040 cubic feet measured using the container's exterior length, width, and height dimensions.
 - e. For all other uses, the total volume of all portable storage containers shall not exceed 9,120 cubic feet measured using the container's exterior length, width, and height dimensions, provided that the said units are located to the rear of the building and screened from public areas.
 - f. The total height of portable storage containers, measured from finished grade to the top of the structure, shall not exceed ten (10) feet.
 - g. No portable storage container shall be placed within five (5) feet of any lot line.
 - h. No portable storage container shall be placed within ten (10) feet of a wall of any building.
 - i. Exemptions. The use of portable storage containers shall not be subject to the conditions set forth above, in the following circumstances:
 - i. The use of a portable storage container associated with an active construction site where a building permit has been issued, provided that all portable storage containers shall be removed from the site within fourteen (14) days following the end of construction or abandonment of project.
 - ii. The use of any portable storage container associated with active cleanup efforts or temporary storage following any natural disaster or emergency directly affecting the property where such portable storage container is used.
9. Recreational Vehicle, Habitation. Recreational vehicles located outside of a designated recreational vehicle park may be occupied only as follows:
- a. One (1) recreational vehicle may be used as temporary lodging while parked on the same lot with a dwelling for not more than two (2) separate periods per year not exceeding three (3) weeks each.

- i. Location of occupied recreational vehicle on lot must meet all setback requirements for accessory structures as required in Section 4.06, A, 1 of this law, except that the occupied recreational vehicle may be located on the driveway no closer than twenty (20) feet from any road right of way.
 - b. With a temporary permit, issued by the Code Enforcement Officer, a recreational vehicle on a vacant lot may be occupied for a period of up to six (6) months per calendar year. Recreational vehicles shall not be rented for on premise habitation. The applicant shall address the following:
 - i. Applicant must provide:
 - (A) Garbage removal plan
 - (B) Waste water removal plan
 - (C) Sewage removal plan
 - ii. Permit must be prominently displayed in window, visible from the road.
 - iii. Location of occupied recreational vehicle on lot must meet all setback requirements for a principal structure as regulated in Section 5.01 of this law.
 - iv. No decks, porches, roofs, or sheds shall be affixed to any recreational vehicle.
 - c. Unoccupied Recreational Vehicles:
 - i. A maximum of 2 unoccupied recreational vehicles may be stored outside.
 - ii. An unoccupied recreational vehicle shall be stored in the side yard, rear yard, or front side yard no closer than twenty (20) feet to any rear or side lot line and no closer than twenty (20) feet to the road right-of-way. The recreational vehicle shall not obscure the view by neighbors or oncoming traffic. When so stored, no connections shall be permitted except electrical. All Recreational Vehicles stored outside shall be in a condition suitable for registration; and either be registered or have been registered within the past 6 months, if such Recreational Vehicle is required by law to be registered.

10. Short Term Rental:

- a. Management of Short-Term Rental Properties:
 - i. It shall be the obligation of every owner of a residential property in the Town who permits the property to be used for short-term rental to register said property with the Town Clerk. Such registration shall be completed by the property owner or their agents not fewer than ten (10) calendar days prior to the first occupancy of the short-term rental property. Each owner shall provide information to the Town such that the owner may be contacted by telephone at any time of day or night with complaints by the public. The owner must be able to respond to complaints about the short-term rental property and take necessary action to resolve the complaint within thirty (30) minutes after notice is given to the contact telephone number.
 - ii. The Town Clerk shall maintain a registry of short-term rental properties which shall contain the information in each registration form.
 - iii. Every registration shall be on a registration form adopted by the Town Board. The information entered on the registration form shall be a public record.
 - iv. If the owner of the short-term rental property does not reside within the Town, the owner must designate an agent to represent the owner's interests and obligations. The agent shall provide information to the Town such that the

agent may be contacted by telephone at any time of day or night with complaints by the public. The agent must be able to respond to complaints about the short-term rental property and take necessary action to resolve the complaint within thirty (30) minutes after notice is given to the contact telephone number.

- v. The name and telephone number of the owner or agent to be contacted with complaints shall be posted on the short-term rental property in a durable and readable form posted inside the home and easily accessible for first responders.

b. Fees:

- i. There shall be an annual registration fee imposed for registration of short-term rental properties. The amount of the fee shall be established in a fee schedule from time to time by resolution of the Town Board.

c. Operational Standards for Short-Term Rentals:

- i. Each owner of a short-term rental property in the Town shall ensure that their rental tenants do not make noise at a level which can be heard beyond the boundaries of the property.
- ii. Each owner of a short-term rental property in the Town shall ensure that their rental tenants do not encroach upon the lands of adjoining owners with trespassing people, automobiles, trailers, boats, or other recreational vehicles.

11. Uses Subject to Special Conditions in the Owasco River Protection Zoning District (O). For all uses denoted as “SC” in Owasco River Protection Zoning District (O) in Section 4.05, Table 1 the following conditions must be met in order to obtain a building permit:

- a. No new structures shall be built unless the building is a replacement in-kind of an existing building that will be demolished for the project. In such case, the building footprint shall not be enlarged and the structure must be elevated above the Base Flood Elevation determined by FEMA as indicated on the Flood Insurance Rate Map (FIRM) for all areas in the Special Flood Hazard Areas designated as Zone AE.
- b. Floodway Areas in Zone AE, as indicated on the FIRM map, shall be kept free of all encroachments by any structures as required by FEMA.
- c. No clearcutting of trees shall be permitted.
- d. No structures shall be built on slopes of 15% or greater.

Article V. Regulations Applicable to All Zoning Districts

Section 5.01 – District Regulations and Dimensional Requirements

A. District Regulations:

1. The regulations for each district pertaining to minimum lot size, minimum lot width, minimum front setback, minimum side setback, minimum rear setback, maximum building height, and maximum building coverage shall be as specified in this Section, subject to the further provisions of this Law.

B. Table of Dimensional Requirements:

Table 2: Town of Throop Zoning Dimensional Requirements Table								
District/Use	Minimum Lot Size (sq ft)	Minimum Lot Width (ft.)	Minimum Setbacks			Maximum Height (ft.)	Maximum Lot Coverage	Maximum Impervious Surface Coverage
			Front (ft.)	Side (ft.)	Rear (ft.)			
Agricultural Zoning District (A)								
Agricultural Structure as the principal structure	87,120	200	75	30	30	35	10%	10%
Single or Two Family Dwelling	65,340	200	75	30	30	35	10%	20%
Other Structure as the principal structure	43,560	200	75	30	30	35	10%	10%
Low Density Residential Zoning District (R1)								
Single or Two Family Dwelling	32,670	100	75	15	15	35	20%	40%
Other Structure as the principal structure	43,560	100	75	20	30	35	20%	40%
Medium Density Residential Zoning District (R2)								
Single or Two Family Dwelling	21,780	100	75	15	15	35	30%	60%
Multi Family Dwelling	32,670	100	75	25	30	35	30%	60%
Other Structure as the principal structure	43,560	100	75	20	30	35	30%	60%
Commercial Zoning District (C)								
Commercial Structure as the principal structure	43,560	200	75	15	15	35	40%	70%
Other Structure as the principal structure	43,560	200	75	15	15	35	40%	70%
Owasco River Protection Zoning District (O)								
Any structure as the principal structure	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

C. Lot Area or Setbacks Required:

1. No lot shall be so altered that the area of the lot or the dimensions of setbacks or other open spaces are smaller than herein prescribed.
2. The front setback shall be measured from the centerline of the road to the closest point of the building.

D. Principal Buildings on a Lot. Only one (1) principal building shall be permitted on any lot.

E. Exceptions to Minimum Lot Sizes and Lot Widths:

1. The provisions of Article V shall not prevent the construction of a single-family dwelling, provided the dimensional requirements are observed on any lot which was lawful when created, provided the dimensional requirements then specified are observed, and which prior to the effective date of this Law was in separate ownership duly recorded by plan or deed.
2. Exemption of lots shown on approved subdivision plats shall be made in accordance with the provision of the New York State Town Law Article 16, §265-a.

F. Exceptions to Maximum Building Height:

1. District height limitations shall not apply to church spires, cupolas and domes, monuments, water towers, chimneys, smoke-stacks, farm structures, silos, flag poles, utility poles, radio and television masts or aerials, utility towers, and parapet walls extending not more than four feet above the limiting height of the building.

G. Projections into Required Setbacks:

1. Projections into required setbacks shall be permitted as follows, except that no such projection shall be located closer than ten (10) feet to any side or rear lot line or twenty (20) feet to any front lot line.
 - a. Fire escapes, canopies, eaves, steps, ramps, or other architectural features not required for structural support may project into the required front, side, or rear setback not more than a total of five (5) feet.
 - b. Porches and patios may project into the required front, side, or rear setbacks up to ten (10) feet.

H. Unique Lots and Building Locations:

1. Through Lots. Where a single lot under individual ownership extends from one street to another parallel or nearly parallel street, the Planning Board shall decide which street will be considered the front street. No principal structure shall be erected on the rear of the lot. Accessory structures in any zoning district shall meet the setback requirements of the principal structure of the lot.
2. Side Setback of a Corner Lot. The side setback of a corner lot which abuts a street, shall be equal to the required front setback for that street.

I. Regulations for Residential Structures:

1. Minimum Habitable Floor Area. Every dwelling unit shall have a minimum habitable floor area of nine hundred (900) square feet. Habitable floor area shall not include area contained in cellars, attics, or garages.
2. Additional requirements for Manufactured homes:
 - a. Manufactured homes shall be constructed in conformity with the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C. Section 5401, et. seq.). Manufactured homes must meet all provisions, requirements, and definitions found in Appendix E: Manufactured Housing Used as Dwellings in the

Residential Building Code section of the NYS Uniform Fire Prevention and Building Code, including:

- i. Is a structure transportable in one or more sections which, in the traveling mode, is eight (8) feet or more in width or forty (40) feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet.
- ii. Is built on a permanent chassis and designed to be used as a dwelling when connected to the required utilities.
- iii. Is installed on a permanent foundation with all towing devices, wheels, axles, and hitches, and skirted as described by the NYS Uniform Fire Prevention and Building Code.
- iv. For manufactured homes built prior to June 15, 1976, a label certifying compliance with the Standard for Mobile Homes, NFPA 501, ANSI 119.1, in effect at the time of manufacture, is required.
- v. Any additions to a manufactured housing unit shall comply with Subchapter AE102 of the NYS Uniform Fire Prevention and Building Code.

J. Design of Non-Residential Development. It is the objective of this Law to encourage the orderly development of commercial, light industrial, and other non-residential parcels in a manner which will provide for proper access and reduce traffic conflicts and provide for the health and, welfare of the population of the Town. This shall be accomplished as follows:

1. The design of streets, service drives, and pedestrian ways shall provide for safe, convenient, and hazard free internal circulation of goods, persons, and vehicles.
2. Non-Residential parcels shall be limited to no more than two (2) driveway access points from the street or highway from which they derive their principal access and such driveway access points shall not be more than forty (40) feet wide and shall be designed in a manner which will minimize their interference with any traffic movements on the street or highway.
3. Where a number of individual parcels or buildings are being developed jointly, or where a parcel or building is being developed adjacent to another parcel used or suitable for non-residential development, consideration should be given to the following:
 - a. The location and planning of driveway access points to permit their joint use by adjoining parcels so as to minimize the number of intersections with the street or highway from which they derive their access.
 - b. The development of parking and loading areas which permit convenient traffic circulation between adjoining parcels.
 - c. The development of pedestrian walkways between adjoining parking areas and buildings.
 - d. The provision of landscaping and other features which will enhance the usability, character, and attractiveness of the area.

K. Traffic Visibility Across Corners:

1. On any corner lot, no wall, fence, or other structure shall be erected or altered, and no hedge, tree, shrub, or other growth except agricultural crops shall be maintained which may cause danger to traffic on public streets by obscuring the view. Visual obstructions shall be limited to a height of not more than two (2) feet above street level within the triangular area bounded by the street lines and a straight line drawn between points on each such street line twenty-five (25) feet from the intersection of said street lines.

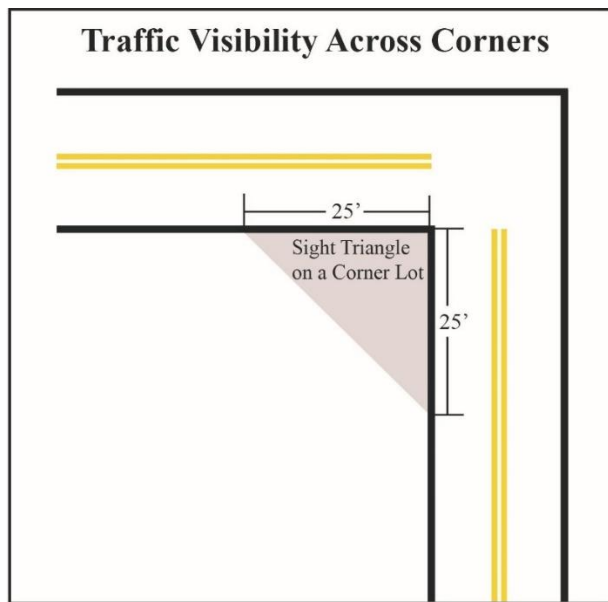


Figure 3: How to Measure a Sight Triangle on a Corner Lot

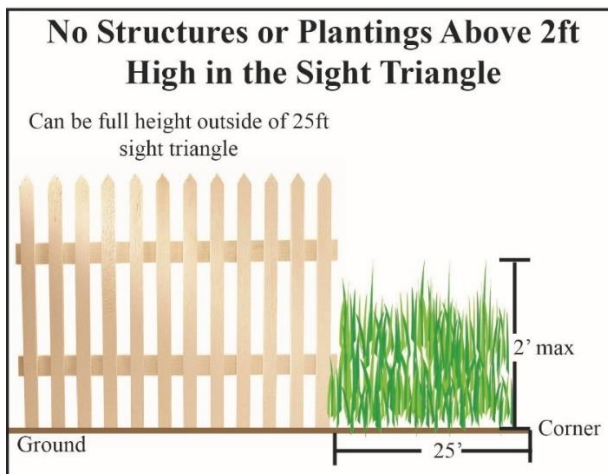


Figure 4: Height Restrictions within a Sight Triangle on a Corner Lot

2. Where a private access way intersects a public street, visual obstructions shall be limited to a height of not more than two (2) feet above street level within the triangular area bounded by the street line, the edge of the private access way, and a straight line drawn between points on both the street line and the edge of the access way ten (10) feet from the intersection of said lines.

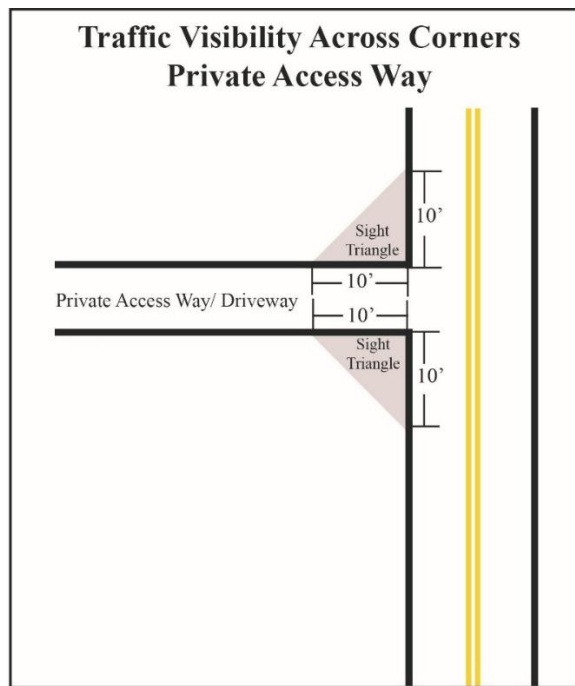


Figure 5: How to Measure a Sight Triangle at a Driveway



Figure 6: Height Restrictions within a Sight Triangle at a Driveway

Section 5.02 – Fences and Walls.

- A. Unless specifically noted, the provisions of this Law shall not apply to fences, terraces, or walls less than five (5) feet in height above the average natural grade, nor to terraces, steps, or other similar features not over three (3) feet high above the level of the floor of the ground story.
- B. Fence heights are limited to six (6) feet.
- C. Fences are subject to the Traffic Visibility requirements found in Section 5.01 of this Article.
- D. The finished side of the fence shall face outward from the fence owner’s lot line so that the nicest side of the fence faces neighboring properties or an adjacent street.

Section 5.03 – Home Gardening, Nurseries, and Greenhouses.

- A. Home gardening, and accessory structures used for nurseries or as greenhouses, are permitted on residential lots, provided that they shall not include the outdoor storage of equipment and supplies. Greenhouses larger than one hundred forty-four (144) square feet are governed by the following:

1. Said greenhouse shall be substantially in character with surrounding residences.
2. A buffer strip consisting of interlocking trees and foliage shall be provided on all side and rear property lines.

Section 5.04 – Lampposts.

- A. Lampposts shall not exceed twenty-five (25) feet in height and the light emitted may not leave the property line.

Section 5.05 – Swimming Pools and Ponds.

- A. Swimming Pools. A single private outdoor swimming pool per dwelling is permitted provided that such swimming pool is for the private use of the residents of the dwelling or for their guests, subject to the following provisions:
1. The edge of the swimming pool is not located closer than twenty (20) feet to any property line.
 2. The swimming pool may not occupy more than ten percent (10%) of the lot area
 3. A minimum four (4) foot high fence shall completely surround the area of the swimming pool
 4. Pools must meet the requirements of the New York State Uniform Fire Prevention and Building Code.
- B. Ponds. Ponds are permitted. Ponds two (2) or more feet deep and in excess of one hundred (100) square feet shall require a zoning permit and shall meet the following requirements:
1. The pond must be located no less than fifty (50) feet from the property line and no less than one hundred twenty-five (125) feet from the edge of the road.
 2. The pond must not exceed twenty-five percent (25%) of the area of the property. The pond shall not affect natural water flow on the property.
 3. Ponds located in the Agricultural District and used exclusively for agricultural purposes (e.g. irrigation, livestock watering source) are exempt from these requirements and shall not require a permit.

Section 5.06 - Garage Sales

- A. “Garage sales” shall include sales of personal property and/or housewares, clothing, furnishings, and related miscellany occurring on private property.
- B. Private properties within the Town shall be limited to a maximum of five (5) garage sales per property per year without a permit. No such garage sale shall last more than three (3) consecutive days.
- C. Sales activities which exceed the above limits shall require approval by the planning board and demonstrate compliance with the regulations governing Home Occupations as set forth in Subsection 4.06, A, 7.

Section 5.07 – Outdoor Furnaces

- A. Definitions. As used in this Section, the following terms shall have the meanings indicated:

KIT BUILD – Shall be defined as any furnace constructed or assembled on site.

NEWER MODEL OUTDOOR FURNACE – A “new” Outdoor Furnace/Wood Boiler is defined as commencing operation on or after June 20th, 2012.

OLDER MODEL OUTDOOR FURNACE – Outdoor furnaces that produce emissions at the level defined by US EPA as Phase 1 or early levels. An outdoor furnace that produces emissions and was in operation before June 20th, 2012 at the level defined by US EPA as Phase 2 or later levels.

OUTDOOR FURNACE/WOOD BOILER – Any equipment, device or apparatus, or any part thereof, which is installed, affixed, or situated separate from an occupied residence or structure for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat and/or hot water for any space. Exempted from this definition are natural gas or propane swimming pool heaters, units specifically designed and manufactured for use of commercial fuels such as wood pellets and corn.

SEASONAL FIREWOOD – Trunks and branches of trees that have been cut and dried for at least one year, but does not include leaves, needles, vines or brush smaller than 3 inches in diameter.

UNTREATED LUMBER – Dry wood which has been milled and dried, but which has not been treated or combined or covered with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other related substance.

B. Permit-Inspection Required. No person shall install and commence operation of an outdoor furnace/wood boiler within the Town of Throop without first having obtained a permit from the Code Enforcement Officer. Application for a permit shall be made to the Code Enforcement Officer on forms provided and available at the Town Clerk's office. Permit fee amount shall be established in a fee schedule, which may be amended from time to time by resolution of the Town Board.

C. General Requirements Applicable to Older Model Outdoor Furnaces/Wood Boilers:

1. Permitted Locations. Older model outdoor furnaces/wood boilers shall be permitted throughout the Town of Throop. All requirements included established by New York State for an outdoor furnace/wood boiler must be met.
2. Minimum Lot Setbacks. The installed older model outdoor furnace/wood boiler must meet a minimum of twenty-five (25) feet setback from the nearest side and back property line. Front yard placement is not permitted.
3. Permitted Fuel. Only seasoned firewood and untreated lumber are permitted to be burned in any older model outdoor furnace/wood boiler. Burning of any and all other materials, including, without limitation, rubbish, garbage, paint, furniture, composite shingles, construction debris, waste oil, products containing asphalt, treated, painted or stained wood, plywood, composite wood products, plastics, synthetic fabrics, foam, rubber including tires, newspaper, corrugated cardboard, coal office paper and container board in an outdoor furnace/wood boiler is strictly prohibited.
4. Installation Instructions. Installation of older model outdoor furnaces/wood boilers must meet all New York State and Regional Fire and Safety Codes. Installation must be in accordance to manufacturer's instructions, except where this Section specifies a more restrictive requirement. All requirements included must be met.
5. Spark Arrestors. All outdoor furnaces/wood boilers shall be equipped with properly functioning spark arrestors or be in conformity with specifications with regard to the release of sparks.
6. All older model outdoor furnace/wood boiler installed with a valid permit shall not be required to be modified as a result of any new construction or changes to the vicinity of the unit.

D. General Requirements Applicable to Newer Model Outdoor Furnaces:

1. Permitted locations. Newer model outdoor furnaces/wood boilers shall be permitted in any zoning district of the Town of Throop when installed after the date of this law.

2. Minimum Lot Setbacks. The installed unit must meet a minimum set back from the nearest side and back property line and front yard placement standards as stated in Subsection C, 2 herein.
 3. Permitted Fuel. Only seasoned firewood and untreated lumber are permitted to be burned in any newer model outdoor furnace/wood boiler. Burning of any and all other materials, including, without limitation, rubbish, garbage, paint, furniture, composite shingles, construction debris, waste oil, products containing asphalt, treated, painted or stained wood, plywood, composite wood products, plastics, synthetic fabrics, foam, rubber including tires, newspaper, corrugated cardboards, office paper and container board in an outdoor furnace/wood boiler is strictly prohibited.
 4. Installation Instructions. Installation of newer model outdoor furnaces/wood boilers must meet all New York State and Regional Fire and Safety Codes. Installation must be in accordance to the manufacturer's instructions, except where this Section specifies a more restrictive requirement. The homeowner must maintain the furnace according to the manufacturer's specifications in all regards. Also the manufactures specifications must be attached to the permit.
 5. Any newer model outdoor furnace/wood boiler installed with a valid permit shall not be required to be modified as a result of any new construction or changes to the vicinity of the unit.
 6. Outdoor furnace/wood boiler must meet all current or future Federal, State, county, or local restrictions. Any part of this law that is more restrictive will take precedence.
- E. Existing Outdoor Furnaces/Wood Boilers. Any outdoor furnace/wood boiler in existence prior to the enactment of this section shall be permitted to remain provided that the owner complies with Subsection C, 3-5 herein.
- F. Health, Safety and Welfare of the Community. An outdoor furnace/wood boiler shall be removed at the owner's expense if determined that any of the following conditions occur:
1. Emissions from the outdoor furnace/wood boiler contain pollutants, air contaminates or particulates or exhibit opacity in excess of those levels permitted by Chapter 111 of the regulations of the New York State Department of Environmental Conservation (6NYCRR parts 200-317) for satisfactory combustion devices.
 2. The by-products of burning wood in the unit such as ash or wood remnants are being disposed of in a matter that is creating a nuisance, adversely impacting ground water supplies or wetland resources, and is not in compliance with all applicable laws.
- G. Entry on Premises. Any resident who has secured a permit to install an outdoor furnace/wood boiler and/or has a unit in existence prior to the enactment of this section will also be required to allow the Code Enforcement Officer or any other person designated by the Town to enter upon any and all real property on which there is located an outdoor furnace/wood boiler, for the purpose of enforcing the provisions of this Section, for inspection, and/or in response to a complaint made regarding the outdoor furnace/wood boiler.
- H. Coordination with Zoning. An outdoor furnace/wood boiler is an appliance and shall comply with any provisions of the Zoning Law not in conflict with provisions of this Section. Should any zoning provision, applicable to an accessory use, conflict with any provisions of this Section, the provisions of this Section shall be applicable.
- I. Penalties for Violations. Failure to comply with any of the provisions of this Section shall be a violation. All violations are subject to the conditions of Sections 15.07 and 15.08 of this Law.
- J. Removal. If the provisions of this Section require the removal of an outdoor furnace/wood boiler, and the unit is not removed within sixty (60) days of the event that requires removal, the Code

Enforcement Officer must take reasonable steps to effect the removal of the identified unit. The costs incurred by the Town to effect said removal (including any attorney's fees and administrative costs incurred by the Town to effect the removal) shall be charged to the owner of the property so affected within thirty (30) days from the date said costs are forwarded to the owner identified in the latest tax roll by registered mail to the address where tax bills are sent. If said expense is not paid within said thirty (30) days then said expense, including applicable penalties outlined for delinquent taxes shall be charged to the property so affected by, including such expenses in the next annual Town of Throop tax levy against the property. Any outdoor furnace/wood boiler that has been out of service for two (2) years will be inspected by the Code Enforcement Officer to ensure that the unit is operating properly.

Article VI. Site Plan Review

Section 6.01 - Applicability

- A. Prior to the issuance of a building or zoning permit for any use noted in Section 4.05, Table 1 as requiring site plan review, the Planning Board shall require the preparation and submittal of a site plan for its review and approval in accordance with the standards and procedures set forth in this Law.

Section 6.02 - Sketch Plan Conference

- A. Sketch Plan Conference Required. All applicants for Site Plan Review shall meet with the Code Enforcement Officer and the Planning Board at a regular Planning Board meeting to conduct a Sketch Plan Review, the purpose of which is to review the basic site design concept and determine the information to be required on the preliminary site plan. The purpose of the sketch plan conference is to discuss with the applicant the project's conformity with the Comprehensive Plan, the requirements in the Zoning Law, and to advise the applicant of other issues or concerns. The sketch plan conference provides an opportunity to indicate whether the proposal, in its major features, is acceptable or whether it should be modified before expenditures for more detail plans are made.
- B. Required Data. Information to be included on the sketch plan is as follows:
1. An area map showing the parcel under consideration for Site Plan Review and all parcels, structures, subdivisions, streets, driveways, easements and permanent open space within 200 feet of the boundaries thereof, or at the discretion of the Planning Board.
 2. A map of site topography at no more than five-foot contour intervals, or at the discretion of the Planning Board, shall be provided. If general site grades exceed five percent (5%) or if portions of the site have susceptibility to erosion, flooding, or ponding, a soils overlay and topographic map showing contour intervals of not more than two (2) feet of elevation should also be provided.
 3. General identification of all existing natural features and utilities on the site and in the area.
 4. The location of all existing and proposed structures on the site and designated uses for each.
 5. Identification of existing zoning classification(s) of the property and all adjoining properties and any restrictions on land use of the site.

Section 6.03 - Preliminary Site Plan Application

- A. Application for preliminary site plan approval. An application for preliminary site plan approval shall be made in writing to the Code Enforcement Officer and shall be accompanied by information drawn from the Preliminary Site Plan Checklist, as determined necessary by the Code Enforcement Officer and the Planning Board at a regular Planning Board meeting for the sketch plan conference. All site plan information and building designs shall be prepared by a licensed New York State architect, engineer, surveyor, or landscape architect.
- B. Preliminary Site Plan Checklist. It is important for the Planning Board to have appropriate information tailored to the plan for site development. To accomplish this, a preliminary sketch plan review is conducted to determine those items from the comprehensive list below which will be required for site plan approval. The preliminary site plan may include:
1. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
 2. North arrow, graphic scale, and date.
 3. Boundaries of the property, plotted to scale.

4. The location of existing property lines, easements, structures, subdivisions, streets, driveways, permanent open space and natural features (subject to other state or federal regulations which may restrict development) within two hundred (200) feet of the proposed site or at the discretion of the Planning Board.
5. Grading and drainage plan, showing existing and proposed contours. The drainage plan shall also clearly explain the methodology used to project storm water quantities and the resultant peak flow conditions.
6. Location, proposed use, and height of all existing and proposed buildings.
7. Summary of the amount of square footage devoted to each use requiring off-street parking or loading.
8. Number, location, design, and construction materials of all parking and loading areas, showing access and egress. Location of reserved parking areas as required by the off-street parking regulations of Article VIII. All proposed site improvements, such as driveway cuts, located within County or State Rights-of-Way must seek the appropriate highway work permit approval from the appropriate State or County agency.
9. Provision for pedestrian access.
10. Location, dimensions, and vehicle capacity of drive-in facilities and related queuing lanes.
11. Building elevation(s) showing building massing, window and door spacing and treatments and other architectural features; and indication of building materials suitable to evaluate architectural compatibility.
12. Location, purpose, and holder of all proposed easements or dedications for utilities, recreation, conservation or other purpose.
13. Location, size, and type of material for any proposed outdoor storage.
14. Location, design, and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences.
15. Description of the type and quantity of sewage expected, the method of sewage disposal and the location, design, and construction materials of such facilities.
16. Description of the type and quantity of water supply needed, the method of securing water supply, and the location, design, and construction materials of such facilities.
17. Location of fire and other emergency zones, including the location of fire hydrants.
18. Location, size, design, and construction materials of all proposed signs.
19. Location of proposed buffer areas, including existing vegetative cover.
20. Location, design, and construction material of all energy-distribution facilities, including electrical, gas, wind power, solar energy, and other public utility facilities, such as cable or phone service.
21. Location, type, height, brightness, and control of outdoor lighting facilities. A photometric study may be required.
22. Identification of permanent open space or other amenities provided.
23. A table summarizing all dimensional requirements for the principal structure (as provided in Section 5.01) and any accessory structures (as provided in Subsection 4.06, 1) as well as all dimensions for all structures proposed, each building footprint, total size in square feet and number of stories; the number of dwelling units and the amount of square feet devoted to each use type; size, in square feet or acres, of access, parking and circulation areas and the

number of loading, queuing and parking spaces; size in square feet of landscaped and natural open space; and size in square feet and text of all signs.

24. A landscaping plan and planting schedule in accordance with Article IX.
25. Other elements integral to the proposed development as considered necessary by the Planning Board, to include showing railroads or any other type of transportation facilities not specified.
26. All forms and information pursuant to New York State Environmental Quality Review Act (SEQRA).
27. An agricultural data statement if the proposed use is located on or within five hundred (500) feet of a farm operation located in the Cayuga County Agricultural District.
28. For all developments disturbing more than one acre, New York State Department of Environmental Conservation (NYSDEC) requires that Municipalities receive a copy of the Storm Water Pollution Prevention Plan (SWPPP) prior to plan approval. The owner is required to comply with the NYSDEC's "SPEDES General Permit for Storm Water Discharge from Construction Activity" Permit #GP-02-01 (or as may be revised).

C. Required fee.

1. The fee schedule will be established by the Town Board and said fee shall be paid when the application is made.

Section 6.04 - Planning Board Review of Preliminary Site Plan

A. The Planning Board shall review all preliminary site plans. The Planning Board's review shall include, as appropriate, but is not limited to, general consideration of the following:

1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls for parking, loading and drive-in facilities.
2. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience. In general sidewalks shall be required along all dedicated roads on lots within one thousand (1,000) feet of a school, park, or residential concentration.
3. Location, arrangement, appearance, and sufficiency of off-street parking and loading.
4. Location, arrangement, size, design and general architectural and site compatibility of buildings, lighting, signs, and landscaping.
5. Adequacy of storm water calculation methodology and storm water and drainage facilities to eliminate off-site runoff and maintain water quality.
6. Adequacy of water supply and sewage disposal facilities.
7. Size, location, arrangement and use of required open space and adequacy of such open space to preserve scenic views and other natural features, to provide wildlife corridors and habitats, to provide suitable screening and buffering; and to provide required recreation areas.
8. Protection of adjoining, adjacent or neighboring properties against noise, glare, unsightliness or other similar nuisances.
9. Adequacy of community services, including fire, ambulance and police protection, and on-site provisions for emergency services, including fire lanes and other emergency zones, fire hydrants and water pressure.
10. Adequacy and unobtrusiveness of public utility distribution facilities, including those for gas, electricity, cable television, and phone service.

11. Making provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary thereof.
 12. In accordance with the Town of Throop Comprehensive Plan and other planning studies.
 13. Conformance with density, lot size, height, yard and lot coverage and all other requirements of the zoning regulations contained in this Law.
- B. Applicant to attend Planning Board meeting.
1. The applicant and/or their duly authorized representative shall attend the meeting of the Planning Board where the preliminary site plan is reviewed.
- C. Consultant review. The Planning Board may consult with the Town Board, Code Enforcement Officer, Fire Commissioners and other appropriate local and county officials and departments and its designated private consultants, in addition to representatives of federal and state agencies, including but not limited to the Cayuga County Soil and Water Conservation District, the New York State Department of Transportation, and the New York State Department of Environmental Conservation.
- D. Public hearing. The Planning Board may conduct a public hearing on the preliminary site plan. If a public hearing is considered desirable by a majority of the members of the Planning Board, such public hearing shall be conducted within sixty two (62) calendar days of the receipt of the application for preliminary site plan approval. The Planning Board shall publish a notice in the Town's official newspaper and publish in any other location/media that the Town deems appropriate and necessary at least ten (10) business days prior to the date fixed for the public hearing.

Section 6.05 - Planning Board Action on Preliminary Site Plan

- A. Within sixty two (62) calendar days after the Public Hearing or within sixty two (62) calendar days after the complete application was filed if no Public Hearing was held, the Planning Board shall act on the application for preliminary site plan approval. This time may be extended by mutual consent of the applicant and the Planning Board. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, disapproved, or approved with modifications.
- B. The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Board's statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.

Section 6.06 - Final Site Plan Approval Procedure

- A. After receiving approval, with or without modifications, from the Planning Board on a preliminary site plan, the applicant shall submit a final detailed site plan to the Planning Board for approval. If more than six (6) months has elapsed since the time of the Planning Board's action on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review. The Planning Board may also require a new public hearing. The final site plan shall conform substantially to the approved preliminary site plan. It should incorporate any modifications that may have been recommended by the Planning Board in its preliminary review. All such compliance shall be clearly indicated by the applicant on the appropriate submission.
- B. The following additional information shall accompany an application for final site plan approval:
1. Record of application for and approval status of all necessary permits from local, state, and county officials.

2. An estimated project construction schedule.
 3. A legal description of all areas proposed for municipal dedication.
 4. A conservation easement or other recordable instrument executed by the owner for any permanent open spaces created.
- C. If no building permit is issued within one calendar year from the date of final site plan approval, the final site plan approval shall become null and void.

Section 6.07 - Referral to County Planning Board

- A. Prior to taking action on the final site plan, the Planning Board shall refer the plan to the County Planning Board for advisory review and a report in accordance with Section 239-l, m & n of the New York State General Municipal Law.

Section 6.08 - Planning Board Action on Final Site Plan

- A. Within sixty two (62) calendar days of receipt of the application for final site plan approval, the Planning Board shall make its final decision to either approve or disapprove of the final site plan. This time may be extended by mutual consent of the applicant and the Planning Board. The Planning Board shall submit a written copy of its decision to the Town Clerk, the Code Enforcement Officer, and the applicant within five (5) business days of the Planning Board's decision.
- B. Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due and letter of credit if required, the Planning Board shall endorse its approval on a copy of the final site plan. A copy of the approved final site plan shall be filed with the Code Enforcement Officer and a copy shall be provided to the applicant.
- C. Upon disapproval of a final site plan, the Planning Board shall so inform the Code Enforcement Officer, and the Code Enforcement Officer shall deny a building permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval. These notifications shall comply with the time frames in sub-section A. above.

Section 6.09 - Reimbursable Costs

- A. Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan or inspection of required improvements shall be charged to the applicant. Estimated review fees shall be deposited into an escrow account when making application for preliminary site plan approval. Such fees may include staff costs or consultant fees covering planning, engineering, environmental analysis, wetland delineation, legal review, and other technical services required for a proper and thorough professional review of the application. No permit shall be issued until all costs have been paid. The Town shall account for the expenditure of all such funds and shall promptly refund any unexpended funds within twenty (20) business days of final action by the Planning Board.

Section 6.10 - Surety

- A. No Certificate of Occupancy shall be issued until all improvements shown on the site plan are installed or an irrevocable letter of credit, or other form of surety deemed acceptable by the Town Board, has been posted for improvements not yet completed. The form of surety shall be approved as to form by the Town Attorney and as to amount by the Town Engineer. The member of the Planning Board designated to sign approved site plans shall not sign an approved plan until a surety, if required, has been received by the Town Clerk and approved by the Town Board.

Section 6.11 - Inspection of Improvements

- A. The Code Enforcement Officer shall be responsible for the overall inspection of site improvements. The applicant shall be responsible for advance notice for inspection coordination with officials and agencies, as appropriate. The Code Enforcement Officer may retain the services of a qualified private consultant to assist with inspection of site improvement. The fees for consultant inspection services shall be paid by the applicant in accordance with Section 6.09.

Section 6.12 - Integration of Procedures

- A. Whenever the particular circumstances of a proposed development require compliance with the special use permit procedure pursuant to Article VII of this Law, the Planning Board shall attempt to integrate, as appropriate, Site Plan Review as required by this Article with the procedural and submission requirements for such other compliance.

Article VII. Special Use Permits

Section 7.01 - Purpose and Intent

- A. The purpose of this Article is to set forth supplemental regulations, procedures, and conditions which shall apply to specially permitted land use activities in the Town of Throop. Special uses are those uses that will have a special impact or unique form which requires a case-by-case review to determine the uses compatibility with the surrounding properties and to mitigate adverse impacts to the harmony of the neighborhood and the environment. In reaching a determination on a Special Use Permit application, the Planning Board shall take into consideration such concerns as the specific location, design, configuration, and impact to others, together with the criteria set forth below.

Section 7.02 - Applicability

- A. No Zoning Permit shall be issued by the Code Enforcement Officer for any land use or activity listed in Article IV as requiring a Special Use Permit (SP) until the Planning Board has approved the Special Use Permit application. The Planning Board shall approve applications for Special Use Permits only when satisfied that all applicable requirements, as set forth in this Section, have been complied with, in addition to all other requirements of this Law. All fees as established by Town Board in a fee schedule shall be paid.

Section 7.03 - Procedure for Obtaining a Special Use Permit

- A. The Planning Board shall hear and decide upon any application for a Special Use Permit as listed in Article IV. Applicants shall have the burden of proof in establishing their right to a Special Use Permit.
- B. As part of a Special Use Permit application, Site Plan Review in accordance with the requirements listed in Article VI is required. The following additional materials must also be provided by the applicant:
1. A Special Use Permit Application with all information required therein.
 2. A narrative statement with any supporting evidence regarding the merits of the proposed use at the proposed location and how the proposal complies with the general and specific requirements of this Law.
 3. All completed forms and supplemental information as required by Article 8 of the New York State Environmental Conservation Law, known as the State Environmental Quality Review Act, and regulations at NYCRR Part 617 adopted thereunder (collectively, "SEQRA").
- C. Public Hearing and Planning Board Action on Special Use Permits:
1. Within sixty-two (62) calendar days of the receipt of a complete application for Special Use Permit, the Planning Board shall conduct a public hearing.
 2. The Planning Board shall publish a notice in the Town's official newspaper, post the notice on the Town's website, and post in any other location/media that the Town deems appropriate and necessary at least ten (10) business days prior to the date fixed for public hearing.
 3. The Planning Board shall send by certified mail a copy of the public notice to all owners of parcels that are immediately adjacent to and extending 500 feet therefrom, or of that directly opposite thereto, extending 500 feet from the street frontage of the parcel(s) of land included in the application for the Special Use Permit at least ten (10) business days prior to the date of such public hearing.
 4. The Planning Board shall make a decision on the application within sixty-two (62) calendar days after such hearing and file said decision within five (5) business days after the day such decision was rendered with the Town Clerk, and mail such decision to the applicant with a

copy to the Code Enforcement Officer. The time within which a decision must be rendered may be extended by mutual consent of the applicant and the Planning Board.

- D. Referral to the County Planning Board must be made at least ten (10) business days before the required public hearing by the Planning Board under provisions of Section 239-l, m & n of the New York State General Municipal Law.

Section 7.04 – General Requirements and Standards

- A. The Planning Board shall grant a Special Use Permit only if the proposed use will meet all of the following general requirements as well as any specific requirements and standards listed for the proposed use. A proposed use:
1. Must be in the best interest of the Town, the convenience of the community, the public welfare, and be a substantial improvement to property in the immediate vicinity;
 2. Will not have an undue adverse effect upon adjoining or adjacent property, the character of the neighborhood and surrounding areas, traffic conditions, parking, utility facilities, or other matters affecting the public health, safety, welfare, or convenience of the public;
 3. Will not create operations or uses that will be considered objectionable to nearby properties by reason of noise, fumes, vibrations, illumination or other outward effects on others in the zoning district or vicinity;
 4. Will be serviced adequately (as determined by the Planning Board) by essential public facilities and services, including, but not limited to, highways, streets, parking spaces, public transportation, police, ambulance and fire protection, drainage structures, solid waste management and refuse disposal, water and sewage disposal, groundwater protection, schools, energy conservation, and any other services the Planning Board deems appropriate;
 5. Will not have an adverse effect on the environment; and
 6. Will be in conformance with all applicable requirements of this Law.
- B. In granting a Special Use Permit, the Planning Board may impose conditions regarding layout, circulation, and performance it deems necessary to ensure that any proposed development will substantially meet the objectives of these Regulations. These conditions may include but are not limited to the following:
1. Increasing the required lot size or yard dimensions.
 2. Limiting the height, size, or location of buildings.
 3. Controlling the location and number of vehicle access points.
 4. Increasing the number of required off-street parking spaces.
 5. Limiting the number, size, location, and lighting of signs.
 6. Requiring fencing, screening, landscaping, or other facilities to protect adjoining or nearby property.
 7. Designating areas for open space.

Section 7.05 - Expiration and Revocation of Special Use Permits

- A. Expiration of Permits:
1. An applicant granted a Special Use Permit shall be given six (6) months in which to begin to put into effect the use permitted by the granted Special Use Permit. The Planning Board may increase this period from six (6) months to one (1) year at its discretion upon request from the permit holder.

2. A Special Use Permit shall expire if the special permit use or uses cease for more than twelve (12) consecutive months.
- B. Revocation of Special Use Permit. The Planning Board may revoke a Special Use Permit upon reasonable cause should the permittee violate the conditions of the Special Use Permit and fails to terminate such violation within thirty (30) calendar days of receiving a notice of violation; engages in any activity not authorized by the Special Use Permit; or fails to comply with any other provision of this Law. Before a permit may be revoked, a public hearing shall be held by the Planning Board. Notice of the hearing shall be made in the official newspaper at least ten (10) business days prior to the date thereof. The permit holder shall be notified of the hearing by certified mail at least ten (10) business days prior to the hearing. At the hearing, the Planning Board shall hear the permit holder and all other persons wishing to be heard on the revocation of the Special Use Permit. If the Planning Board decides to revoke a Special Use Permit, the reasons for such revocation shall be stated in the public hearing minutes. The permit holder shall be immediately notified of the revocation by certified mail.

Section 7.06 - Requirements for Defined Special Uses

- A. In addition to the procedures, requirements, and standards listed elsewhere in this Article, the following uses have specific criteria that must be met by the applicant for a Special Use Permit:
1. Accessory Dwelling Unit:
 - a. Accessory dwelling units shall be subordinate in area to the principal dwelling unit. The accessory dwelling unit shall not exceed a maximum of fifteen hundred (1,500) square feet.
 - b. A maximum of one accessory dwelling unit shall be allowed on any one lot.
 - c. No accessory dwelling unit shall contain more than two (2) bedrooms.
 - d. Accessory dwelling units shall utilize common water and septic facilities with the primary dwelling unit, unless otherwise approved by the Cayuga County Health Department.
 - e. All accessory dwelling units shall comply in all other respects with the provisions of local, state, and federal laws, ordinances, rules, and regulations, specifically including the New York State Uniform Fire Prevention and Building Code.
 2. Adult Oriented Business. In order to prevent the negative secondary effects of adult entertainment, establishments are subject to the following provisions:
 - a. No adult-oriented business shall be permitted in a building any part of which is used for residential purposes, including non-conforming residential uses.
 - b. No more than one adult oriented business shall be permitted in any building or on any lot.
 - c. No minor (under the age of 18) shall be permitted onto the premises of any adult oriented business.
 - d. The exterior of the adult oriented business structure shall be consistent with the character of the surrounding structures and shall not detract from the appearance of the neighborhood. No building shall be painted in garish colors or other fashion as will effectuate the same purpose as a sign, without Planning Board approval.
 - e. An adult oriented business shall not be operated on a lot whose property lines are within one thousand (1000) linear feet of any building used for: residential purposes, a group care facility, a child care center, a regular place of religious worship, a public

- or private school, a public or semi-public building, a medical center, a community center, or another adult oriented business.
- f. An adult oriented business shall not be operated within one thousand (1000) linear feet of the property line of any property used as a public park, recreation facility, health facility, or trail.
 - g. All adult oriented businesses shall be conducted within enclosed buildings.
 - h. Landscaping and Buffering:
 - i. Suitable landscaping shall be installed and maintained in accordance with Article IX and shall be subject to approval by the Planning Board.
 - ii. There shall be a buffer strip along the side and rear property lines. Such buffer strips shall be at least ten (10) feet in depth and may consist of interlocking trees and foliage with or without a fence in a manner acceptable to the Planning Board. The maintenance of the buffer strip shall be the continuing obligation of the property owner.
 - iii. Sufficient screening shall be provided along all lot lines abutting or adjacent to residentially zoned or developed property to block any view of operations from all points on such residential property when viewed from ground level.
3. Animal Care Facility, Animal Kennel or Shelter, or Animal Training Facility:
- a. In addition to the requirements set by New York State, establishments which harbor or board animals with access to the outdoors shall meet the following standards:
 - i. All buildings shall meet the minimum dimensional standards for agricultural structures found in Section 5.01, Dimensional Requirements Table.
 - ii. In order to reduce noise, the design of the structure shall deny dogs a view of the road.
 - iii. Within the Commercial Zoning District, all animals shall be kept indoors and there shall be no outdoor facilities for animal training, care, or recreation.
4. Cannabis On-Site Consumption Lounge or Cannabis Retail Dispensary:
- a. In addition to the requirements set by New York State, Cannabis On-Site Consumption Lounges and Cannabis Retail Dispensaries shall meet the following standards:
 - i. The exterior of all structures shall be consistent with the character of the surrounding structures and shall not detract from the appearance of the neighborhood. No building shall be painted in garish colors or other fashion as will effectuate the same purpose as a sign without Planning Board approval.
 - ii. Businesses shall not be operated on a lot whose property lines are within one thousand (1000) linear feet of any building used for: residential purposes, a group care facility, a child care center, a regular place of religious worship, a public or private school, a public or semi-public building, a medical center, a community center, or an adult oriented business.
 - iii. Business shall not be operated within one thousand (1000) linear feet of the property line of any property used as a public park, recreation facility, health facility, or trail.
 - iv. All consumption lounges and dispensaries shall be conducted within enclosed buildings.

- v. Landscaping and Buffering:
 - (A) Suitable landscaping shall be installed and maintained in accordance with Article IX and shall be subject to approval by the Planning Board.
 - (B) There shall be a buffer strip along the side and rear property lines. Such buffer strips shall be at least ten (10) feet in depth and may consist of interlocking trees and foliage with or without a fence in a manner acceptable to the Planning Board. The maintenance of the buffer strip shall be the continuing obligation of the property owner.
 - (C) Sufficient screening shall be provided along all lot lines abutting or adjacent to residentially zoned or developed property to block any view of operations from all points on such residential property when viewed from ground level.
 - b. Studies and plans required:
 - i. Lighting Plan:
 - (A) All Lighting shall be located such as to prevent the direct rays from shining upon adjacent properties.
 - (B) All flickering, pulsating, or flashing lights and exposed neon lights are specifically prohibited.
 - (C) No light, which may tend to confuse the motoring public, shall be permitted.
 - ii. Odor Control plan:
 - (A) Description of any odors anticipated to originate from the premises
 - (B) Description of control technologies that will be used to prevent odors from leaving the premises.
5. Child Day Care Center:
- a. In addition to the requirements set by New York State, daycare facilities shall meet the following standards:
 - i. Any facility accommodating more than 10 children or adults shall have a minimum lot area of one (1) acre.
 - ii. Outdoor play areas shall be sufficiently screened and sound insulated as to protect the neighborhood from inappropriate noise and other disturbance.
6. Commercial Building Located Outside of the Commercial Zoning District:
- a. The intent of these requirements is to provide for the intuitive reuse of buildings that were built or designed for commercial use but are not located in the Commercial Zoning District. This special use permit is only intended for properties which were used for commercial use prior to the adoption of this Zoning Law by the Town of Throop and are located outside of a Commercial Zoning District.
 - b. The properties eligible to apply for this special use permit shall be limited to the following properties listed in the table below:

Table 3: List of Eligible Properties	
Tax Map No.*	Property Address*
101.00-2-19	7526 Potter Rd
101.00-2-27	2583 Turnpike Rd
101.03-1-32	2144 Turnpike Rd
107.00-1-5.121	7109 Canoga Rd
108.00-2-8	(off) Potter Rd
108.00-2-12.11	7105 Potter Rd
108.00-2-37.11	6951 State St

*Eligible properties are listed by their tax map number and property addresses as of the date of adoption of this Zoning Law.

- c. The uses allowed under this special use permit shall be limited to one (1) use permitted in the Commercial Zoning District as listed in the use table in Section 4.05, Table 1.
 - d. The proposed use shall be subject to all requirements applicable to said use as required by this Zoning Law, as if the use was located in the Commercial Zoning District (i.e. special conditions, special use permit requirements, dimensional standards, off-street parking requirements, etc.). In addition, the applicant shall provide sufficient evidence that the general requirements and standards for special uses, listed in 7.04 A, 1-6 herein, have been met.
7. Dwelling, Multifamily. Development applications for newly constructed multi-family dwelling units shall meet the following:
- a. Density. No multifamily building shall contain more than eight (8) dwelling units.
 - b. Open Space. At least 5.5 square feet of lot area per one (1) square foot of habitable floor area shall be unpaved and uncovered open space.
 - c. Recreational Space:
 - i. At least 0.33 square feet of lot area per one (1) square foot of habitable floor area shall be recreation space. Recreational space may count towards the required minimum open space.
 - ii. All recreation space counted shall be at least twenty (20) feet away from any residence containing a ground floor window.
 - d. Driveways and Parking Lots:
 - i. No driveway or parking lot should be closer than twenty-five (25) feet to the front of any building or ten (10) feet to the side or rear of any building.
 - ii. In the case of an enclosed garage or carport provided as a portion to the main structure, distance requirements for driveways providing access to these accommodations shall not apply.
 - iii. Parking areas may be located in any setback other than the front setback, but no closer than twenty (20) feet from any property line and shall comply with all other regulations of the district in which the use is located.
 - e. Neighborhood Character:
 - i. Buildings shall not have large or long continuous wall or roof planes. Varied roof heights, projecting bays, gables, recesses, porches, and other architectural design elements shall be used to visually divide larger buildings.

- ii. To prevent an out-of-scale, monolithic appearance, buildings shall be visually divided into smaller sections no longer than fifty (50) feet in length by gaps, recesses, or other architectural devices in such a way that adjacent buildings and facades define a continuous street wall and pedestrian-friendly streetscape.
 - iii. Accessory structures, such as clubhouses, pools, pool buildings, storage buildings, and trash enclosures, shall be located in a manner that does not disturb or encroach upon the streetscape (pedestrian walkways, roadways, etc.) or adjacent residential neighborhoods.
- 8. Event Venue:
 - a. The Planning Board shall determine the maximum capacity for allowed attendees at the Event Venue, based on the following information:
 - i. Site features.
 - ii. Proximity to adjoining residences.
 - iii. Neighborhood characteristics.
 - iv. The potential for noise or other disruptions to the neighborhood and safety of all persons.
 - b. All proposed temporary structures and facilities must be indicated on the site plans.
 - c. To the greatest extent practical, existing open space and unique natural areas, such as farmland, streams, ponds, marshes, and steep slopes should be preserved. Significant or historic buildings should be preserved and incorporated into the Site Plan wherever possible.
 - d. Food services, overnight lodging, recreational, and other facilities shall be solely for the use by Event attendees and staff, and shall not be open to the general public. Food service and beverage providers shall hold and shall produce upon demand all required permits and licenses as well as proof of insurance for workers compensation as required by law and comprehensive general liability in the amount of at least \$1 million per claim/\$2 million in the aggregate where the Town and its officers and employees are listed as additional insureds.
 - e. Setbacks. All buildings and structures must meet the setback requirements for principal structures for the zoning district which the use is located.
 - f. All parking must be located on site. No parking for patrons, visitors, or employees will be permitted on the side or shoulder of any public street.
 - g. Landscaping and Buffering:
 - i. Suitable landscaping shall be installed and maintained in accordance with Article IX and shall be subject to approval by the Planning Board.
 - ii. In addition to the requirements of Article IX, evergreen trees shall be planted along a forty (40) foot wide buffer between adjacent properties.
 - h. Studies and plans required:
 - i. Noise. This shall include a description and map of the project's noise-producing features and the noise-sensitive environment, including the range of noise levels and the tonal and frequency characteristics expected. The report shall include noise levels at property lines, off-site residences, and any other sensitive noise-receptors, i.e. hospitals, libraries, schools, and places of worship, with identification of potential problem areas.

- (A) Fireworks, firecrackers, or other artificially generated loud noises are not permitted unless included in the noise description and approved by the Planning Board as a part of the Special Use Permit.
 - (B) Amplified sound shall be only permitted indoors.
 - ii. Lighting Plan:
 - (A) All Lighting shall be located such as to prevent the direct rays from shining upon adjacent or adjoining properties.
 - (B) All flickering, pulsating, or flashing lights and exposed neon lights are specifically prohibited.
 - (C) No light, which may tend to confuse the motoring public, shall be permitted.
 - iii. Specifications of the water supply, sewage, and refuse disposal facilities, and proof of approval of said facilities from the Cayuga County Health Department.
 - i. No fewer than five business days prior to an event the owner or operator of the event venue shall pay the appropriate Town Official all applicable inspection fees for the event as determined by the official fee schedule for the Town of Throop as established by the Town Board by resolution. For any event with 50 or more attendees, the owner or operator shall notify the Chief of the Fire District within which the event venue is located. Such notice shall include the street address of the or event venue, the name, telephone number and email address of the owner or operator; the name, telephone number and email address of the person responsible for overseeing the event; the date of the event; the start and stop times of the Event; and the estimated number of persons attending the event.
9. Gasoline Station:
- a. Location. No station, or parts thereof, shall be located within two hundred (200) feet, measured along contiguous street frontages, of any place of residence or public assembly such as, but not limited to churches, schools, theaters, auditoriums, parks and playgrounds.
 - b. Fuel Storage and Gasoline Pumps Requirements and Locations:
 - i. The location, number, capacity, and type of fuel storage tanks, the number of pumps to be installed, and the depth of the tanks shall be indicated on the site plan.
 - ii. No more than four (4) gas pumps shall be permitted unless the following circumstances exist:
 - (A) One (1) pump island may be added for each thirty (30) feet of frontage additional to the minimum required herein, provided such additional frontage has a depth at least equal to that of the other portion of the lot.
 - iii. Gasoline pump islands shall be located not less than twenty-five (25) feet from the street right-of-way lines and no less than thirty (30) feet from all other property lines.
 - c. Access and Circulation:
 - i. A gas station site shall not have more than two vehicle access points (i.e., driveways) on any street. The Planning Board may prescribe the exact

location, dimension and use of driveways as necessary to reduce potential traffic hazards.

- ii. Ingress and Egress. Ingress and egress points shall be located a minimum of forty (40) feet from the intersection of right-of-way lines of any street.
- iii. The entire area of the site traveled by motor vehicles shall be paved/hard surfaced. All such paved areas shall be provided with a storm drainage system to conduct surface run-off into the nearest drainage system.
- iv. Curbs shall be provided along the edge of all areas accessible to motor vehicles to prevent the encroachment of vehicles or any portion thereof, upon adjacent property, or the street right-of-way.
- v. Pedestrian access. Internal pedestrian walkways shall be distinguished from driving surfaces through the use of raised sidewalks, special pavers, bricks, or scored/stamped concrete.

d. Landscaping and Buffering:

- i. Suitable landscaping shall be installed and maintained in accordance with Article IX and shall be subject to approval by the Planning Board.
- ii. In addition to the requirements of Article IX, evergreen trees shall be planted along a forty (40) foot wide buffer between adjacent properties.

e. Lighting Requirements:

- i. All lighting shall be located such as to prevent the direct rays from shining upon adjacent properties.
- ii. All flickering, pulsating, or flashing lights and exposed neon lights are specifically prohibited.
- iii. No light, which may tend to confuse the motoring public, shall be permitted.

f. Additional Requirements:

- i. Fuel stations shall be under the control of an attendant at all times during the hours of operation.
- ii. Lots on which gasoline stations are located shall be maintained at all times and kept free from paper, cans and other rubbish.

10. Industrial, Light:

- a. The minimum land area shall consist of two (2) contiguous acres.
- b. A minimum frontage of three hundred (300) feet shall be required.
- c. There shall be a buffer strip along the side and rear property lines. Such buffer strips shall be at least ten (10) feet in depth and may consist of interlocking trees and foliage with or without a fence in a manner acceptable to the Planning Board. The maintenance of the buffer strip shall be the continuing obligation of the property owner.
- d. No structures or area for the storage of materials or equipment shall be located closer to the road than the front setback for the principal structure, not closer than twenty (20) feet from any side or rear property line.
- e. No structures or area for the storage of materials or equipment shall be located closer than one hundred (100) feet from a perennial or intermittent stream, regulated wetland, or floodplain.

- f. Suitable landscaping, including at least lawns and plantings, shall be installed and maintained in accordance with Article IX and shall be subject to approval by the Planning Board.
- g. Parking. All facilities must provide for on-site parking facilities. No on-street parking will be permitted. All parking lots must feature landscaped islands and, if adjacent to the public right-of-way, landscaped and grassy areas at least ten (10) feet in depth measured from the edge of the right-of-way.
- h. All applicants shall submit plans to the Planning Board including at least the following information:
 - i. The area dimensions and location of the industry.
 - ii. The number, location, and dimensions of all structures.
 - iii. The location and methods of containment of all outdoor hazardous material storage.
 - iv. Specifications of the water supply, sewage, and refuse disposal facilities, and proof of approval of said facilities from the Cayuga County Health Department.
 - v. Photometric lighting plan. No light spillage permitted offsite.
 - vi. Any additional information requested by the Planning Board.

11. Manufactured Home Parks shall meet the following standards:

- a. Applications for a Special Use Permit shall include proposed methods of providing sanitary waste collection and disposal (as approved by the Cayuga County Health Department); potable water supply (as approved by the Cayuga County Health Department); fire protection; refuse collection; adequate drainage including a Storm Water Pollution Prevention Plan (if required); electrical service; mail delivery; snow removal; and any additional items the Planning Board may deem necessary.
- b. Construction and Design Standards:
 - i. Size. A Manufactured Home Park shall comprise an area of not less than ten (10) acres.
 - ii. Setbacks. No Manufactured Home Park office or service building shall be closer than one hundred (100) feet from any property line. Each residential unit shall have a minimum front setback (measured from the edge of the road within the park) of twenty (20) feet and a minimum side and rear setback of fifty (50) feet from the property line.
 - iii. Spacing. There shall be a minimum spacing of thirty-five (35) feet between residential units.
 - iv. Density. The number of residential units shall not exceed six (6) per gross acre of the Manufactured Home Park.
 - v. Landscaping and Buffering:
 - (A) Suitable landscaping shall be installed and maintained in accordance with Article IX and shall be subject to approval by the Planning Board.
 - (B) There shall be a buffer strip along the side and rear property lines. Such buffer strips shall be at least forty (40) feet in depth and may consist of interlocking trees and foliage with or without a fence in a manner

acceptable to the Planning Board. The maintenance of the buffer strip shall be the continuing obligation of the property owner.

vi. Streets. Whether public or private, all streets in a manufactured home park shall be constructed to meet the Town's standards for public streets.

vii. Layout. The layout and design of individual sites, streets, and recreation areas must preserve, as much as practical, the existing topography to include features such as mature trees, rock outcroppings, or other significant and beneficial aesthetic features.

viii. Ground Cover. Exposed ground surfaces shall be protected with grass, plant material, or any other material approved by the Planning Board for the prevention of erosion and the elimination of dust.

c. Zoning Permit Required. There shall be no construction or installation of a manufactured home without first securing a Zoning Permit from the Code Enforcement Officer, after prior approval has been granted by the Planning Board for a Special Use Permit to the manufactured home park owner or operator.

12. Mining/Extractive Industry. All extraction or mining activities undertaken in the Town of Throop shall be in compliance with the following regulations which shall govern the location of all mining and excavation activity:

a. Lot Size. All extractive industry or mining uses shall have a minimum lot size of 20 acres.

b. Setback. The boundaries of any mining operation permitted herein shall be set back at least two hundred (200) feet from any property line, the boundary line of any street or public thoroughfare right-of-way, or any residence or other human-occupied structure.

c. Transportation and Vehicle Access:

i. Local Town roads that are used for ingress and egress from the site shall be hard surfaced and able to handle the traffic load as certified by the Town Highway Superintendent. Evidence must be submitted to the Planning Board's satisfaction that the site will not impose undue damage or excessive wear and tear upon roads and bridges controlled by the local government by virtue of the type and volume of traffic to be generated by the proposed operation.

ii. Routing of mineral transport vehicles on roads controlled by the town shall be determined by the Planning Board based upon evidence gathered by the Board and submitted by the applicant and/or any interested persons. Public health, safety and general welfare considerations shall principally govern the selection of appropriate routes.

iii. Mine access roads at all points, including but not limited to the main entrance and exits of the mine, shall be set back at least two hundred (200) feet from any existing residence or public building.

iv. A barrier consisting of: a) gates across all ingress and egress points; and b) ditching, berming or erection of other similar physical barriers to deter unauthorized vehicular access to the mine must be provided. All gates shall be closed and locked at all times except during working hours of such operations or when employees shall be within.

d. No extractive industry or mining use shall emit dust, noise, or vibration beyond the geographical limits of the use.

- e. The applicant shall give assurance of proper construction and maintenance practices and financial responsibility to protect citizens and properties from injury or damage from fire or other safety concerns; air, ground, or water pollution; soil erosion or sedimentation; trespass; and use of Town highways.
- f. Performance Bond. The applicant shall be required to furnish a performance bond in an amount determined by the Town Engineer, approved by the Planning Board and the Town Board; and to be held by the Town Clerk to be sufficient to guarantee the restoration of Town roads use for ingress and egress from the site to its original condition after construction.
- g. The application shall contain the following information for the Planning Board to review and consider:
 - i. A map, at a scale of one inch equals no more than 100 feet, showing all land within 200 feet thereof, with exact locations of all buildings, streets, utilities, drainage or other easements, watercourses, lot lines, block and lot numbers and names of the landowners. Such map shall also show the present topography at five-foot contour intervals. The map shall be signed by a licensed engineer or land surveyor for certification of its accuracy and source.
 - ii. There shall be a 100 foot buffer area from the area of operation and adjoining streets or property lines.
 - iii. Appropriate barriers that may be needed to restrict access to the site.
 - iv. Hours of operation shall not exceed 6am to 7pm EST Monday thru Saturday.
 - v. Measures that will be implemented to control fugitive dust from migrating off-site.
 - vi. Measures to mitigate any other impact that may arise as a result of the extractive or mining operation.
- h. For extractive industries or mines subject to New York State Department of Environmental Conservation (DEC) permitting and regulation, as set forth in the New York Environmental Conservation Law §23-2711 (excavation of more than 1,000 tons or 750 cubic yards, whichever is less, of minerals from the earth within 12 successive calendar months; or over 100 cubic yards of minerals from or adjacent to any body of water) the following requirements apply:
 - i. The application shall also contain the following information for the Planning Board to review and consider:
 - (A) Copies of all documentation between the applicant and NYS DEC, specifically including but not limited to: the application, plan, reclamation plan, reclamation bond(s), environmental impact statement(s), engineering reports, and renewal application(s).
 - (B) Any other information deemed relevant in the consideration process by the Planning Board.
 - ii. At all times, the applicant shall maintain a valid, in force NYS DEC Permit. Any expirations, renewals, modifications, or changes to the NYS DEC Permit are subject to further review and renewal of the Special Exception permit by the Planning Board.
 - iii. At all times, the applicant shall be required to operate in compliance with the NYS DEC Permit.

- iv. At all times, the applicant shall be required to possess and maintain a valid, in force reclamation bond as required by NYS DEC.
 - i. For extractive industry or mining operations not subject to New York State Department of Environmental Conservation (NYS DEC) permitting and regulation, the following requirements apply:
 - i. The application shall also contain the following information for the Planning Board to review and consider:
 - (A) A plan setting forth in reasonable detail the proposed site, length of operation and type and quantity of materials to be removed.
 - (B) A reclamation plan to provide for restoration of the proposed site.
 - (C) A reclamation bond or other suitable financial security in an amount determined suitable in the discretion of the Town Board to ensure compliance with the reclamation plan.
 - (D) An erosion and sediment control plan.
 - (E) Any other information deemed relevant in the consideration process by the Planning Board.
 - j. The Code Enforcement Officer shall have the right to inspect all or any part of the extractive industry or mining operation.
 - k. Any area that has been used for mining in the Town of Throop, but has not sold its product commercially for one (1) year prior to the date of enactment of this Law, or as amended will be considered an inactive and unpermitted use, and will be required to apply for the right to operate under the terms of this Law.
13. Motor Vehicle Repair Stations, Motor Vehicle Sales/Rentals, and Motor Vehicle Detailing Shops:
- a. All maintenance, service, and repairs of motor vehicles shall be performed fully within an enclosed structure. No motor vehicle parts, partially dismantled motor vehicles, or unlicensed motor vehicles shall be stored outside of an enclosed structure for more than forty-eight (48) hours.
 - b. A spill prevention plan shall be provided by the applicant.
 - c. Location: No station, or parts thereof, shall be located within two hundred (200) feet, measured along contiguous street frontages, of any place of residence or public assembly such as, but not limited to churches, schools, theaters, auditoriums, parks and playgrounds.
 - d. Size: No more than two (2) service bays shall be permitted unless the following circumstances exist:
 - i. One (1) service bay may be added for each thirty (30) feet of frontage additional to the minimum required herein, provided such additional frontage has a depth at least equal to that of the other portion of the lot.
 - e. Access and Circulation:
 - i. The Planning Board may prescribe the exact location, dimension and use of driveways as necessary to reduce potential traffic hazards.
 - ii. Ingress and egress points shall be located a minimum of forty (40) feet from the intersection.

- iii. The entire area of the site traveled by motor vehicles shall be paved/hard surfaced. All such paved areas shall be provided with a storm drainage system to conduct surface run-off into the nearest drainage system.
 - iv. Curbs shall be provided along the edge of all areas accessible to motor vehicles to prevent the encroachment of vehicles or any portion thereof, upon adjacent property, or the street right-of-way.
 - v. Pedestrian access. Internal pedestrian walkways shall be distinguished from driving surfaces through the use of raised sidewalks, special pavers, bricks, or scored/stamped concrete.
- f. Landscaping and Buffering:
- i. Suitable landscaping shall be installed and maintained in accordance with Article IX and shall be subject to approval by the Planning Board.
 - ii. In addition to the requirements of Article IX, evergreen trees shall be planted along a forty (40) foot wide buffer between adjacent properties.
- g. Lighting:
- i. All lighting shall be located such as to prevent the direct rays from shining upon adjacent properties.
 - ii. All flickering, pulsating, or flashing lights and exposed neon lights are specifically prohibited.
 - iii. No light, which may tend to confuse the motoring public, shall be permitted.
- h. Signs. No portable signs or other devices shall be located within the setback area required except as otherwise provided in Article X (Sign Regulations).
- i. Motor Vehicle Repair Stations (including motor vehicle repair as an accessory use of a Motor Vehicle Sales/Rentals principal use) shall not be used for the storage, sale, rental, or display of automobiles, trucks, trailers, mobile homes, boats, snowmobiles or other vehicles, unless, as part of the Special Use Permit application for a Motor Vehicle Repair Station, such use is approved by the Planning Board.
14. Nursing and Convalescent Home:
- a. In addition to the requirements set by New York State, nursing/convalescent homes shall meet the following standards:
 - i. The minimum lot area shall be three (3) acres.
 - ii. All buildings shall not be less than one hundred (100) feet from any lot line.
15. Outdoor Shooting Range:
- a. No shooting range shall be located within one hundred fifty (150) ft from any property line or within two hundred fifty (250) feet of any structure exterior to the use.
 - b. No shooting range shall be located within five hundred (500) ft from any exterior road, human occupied building, or structure containing flammable or combustible materials.
 - c. No residential use shall be in the direct line of fire.
 - d. A cleaning and maintenance plan shall be submitted detailing a site cleaning plan and schedule to prevent the accumulation of bullets, bullet fragments, metal fines, and other debris associated with the use.

- e. An outdoor shooting range shall not operate outside the hours of 8am to 8pm.
- f. An access road with a minimum ten (10) ft width shall be constructed and/or maintained in order to provide access for emergency or safety vehicles to the site. All interior roads shall be easily traversable and have a well-drained surface with provisions for dust control.
- g. The outer perimeters of the range shall be secured by a natural barrier, fencing, or combination of both in order to conceal the use from adjacent properties and prevent trespassing onto the site. A vegetative buffer strip may be considered a natural barrier, however, any vegetative buffer strip proposed shall be at least forty (40) feet in width. The maintenance of the buffer strip shall be the continuing obligation of the property owner.
- h. No tear gas, incendiary devices, tracers, armor piercing ammunition, alcohol, or drug use shall be allowed.
- i. A description of the proposed shooting targets shall be submitted. The planning board may disallow any targets deemed offensive or unsafe. Paper shooting targets only shall be allowed.
- j. A shooting range located in and adjacent to a wetland, or otherwise disturbing a wetland, shall acquire all wetland permits required in accordance with the New York State Freshwater Wetlands Act and Article 24 of the New York State Environmental Conservation Law and the Clean Water Act of the United States.

16. Portable Storage Containers, Long Term:

- a. Portable storage containers intended or used for more than ninety (90) consecutive days or ninety (90) days in a calendar year may be used as an accessory use for the on-site storage of personal property owned, operated or otherwise controlled by the lessee on real property owned, operated or otherwise controlled by the lessee.
- b. All such containers shall comply with the requirements for accessory structures in Section 4.06, Subsection A, 1 of this law. In addition to the regulations in Section 4.06 Subsection A, 1 of this law, such portable storage containers shall be subject to the following requirements:
 - i. The total height of portable storage containers, measured from finished grade to the top of the portable storage container, shall not exceed ten (10) feet.
 - ii. The exterior of the storage container shall be painted, altered, or extended to cover any advertising, lettering, or numbers.
 - iii. All portable storage containers shall be in a condition free from rust, peeling paint and other forms of deterioration.
 - iv. Sufficient screening shall be provided to block the view of any portable storage container from abutting or adjacent streets or residential property when viewed from ground level.
 - v. The portable storage container shall be moved onto the site and removed from the site without accessing or encroaching onto abutting properties.
- c. Exemptions. The use of portable storage containers shall not be subject to the conditions set forth above and shall not require a Special Use Permit, in the following circumstances:

- i. The use of a portable storage container associated with an active construction site where a building permit has been issued, provided that all portable storage containers shall be removed from the site within fourteen (14) days following the end of construction or abandonment of project.
- ii. The use of any portable storage container associated with active cleanup efforts or temporary storage following any natural disaster or emergency directly affecting the property where such portable storage container is used.
- iii. Portable storage containers located on an agricultural lot and used exclusively for agricultural purposes, provided that all such containers comply with the applicable requirements for agricultural structures in this law.

17. Recreation, Outdoor/Recreational Camp:

- a. No building or structure used in conjunction with any outdoor recreation use (other than utility lines) shall be located within one hundred (100) feet of any property line.
- b. Unenclosed uses shall not be located closer than one hundred and fifty (150) feet from any property line, except when greater distances are otherwise required due to the unique characteristic of the use, facility, proximity of homes, topography, etc. Such unenclosed use shall be appropriately screened to ensure minimum impact upon adjacent properties.
- c. Illuminated signs and other lights shall be directed away or shielded from adjoining properties.
- d. No public address system is permitted to be used before 9:00 a.m. or after 10:00 p.m.
- e. Sanitation facilities shall be provided as required by any town, county, state or other agency.
- f. Interior roads shall be easily traversable and have a well-drained surface with provisions for dust control.
- g. The Planning Board may require the applicant to conduct various studies, including but not limited to noise, traffic, drainage or other. Such cost to conduct and review said studies would be borne by the applicant.
- h. The applicant shall be required to provide for mitigation devices, such as but not limited to berms, fencing, landscaping, screening, water systems for dust suppression, traffic control, etc., for the control of noise, dust, fumes or other impacts that might occur as a result of the recreational activity.

18. Recreational Vehicle Park:

- a. A recreational vehicle (RV) park shall permit an RV to stay at the site for no longer than six (6) consecutive months.
- b. Recreational vehicle parks shall comply with New York State laws governing health. In particular, a safe supply of water and adequate disposal of human wastes and garbage shall be provided and approved by the Cayuga County Health Department.
- c. No part of any RV park shall be closer than one hundred fifty (150) feet to any lot line.
- d. Such use shall have a minimum of twenty (20) acres.
- e. Such uses shall not produce noise levels incompatible with the neighborhood community in which they are to be located.

- f. Suitable landscaping shall be installed and maintained in accordance with Article IX and shall be subject to approval by the Planning Board.
- g. Suitable off-street parking, in accordance with this Law and any special considerations as stipulated by the Town Planning Board, shall be provided.
- h. Activities shall not be carried on, or building located, within fifty (50) feet of any property line, except for vehicle ingress and egress to the site.
- i. Any customary commercial activity or use, such as the sale of food and drink, shall be clearly accessory to the principal use, both in the amount of area utilized and the intent of the use.

19. Telecommunication Facility (Cell Towers) shall meet the requirements of Article XIII.

20. Warehousing, Wholesale Distribution:

- a. Within the Agricultural Zoning District, all warehousing or wholesale distribution facilities shall be for agribusiness warehousing or wholesale distribution only.
- b. The minimum land area shall consist of two (2) contiguous acres.
- c. A minimum frontage of three hundred (300) feet shall be required.
- d. No structures or area for the storage of materials or equipment shall be located closer to the road than the front setback for the principal structure, nor closer than twenty (20) feet from any side or rear property line.
- e. No structures or area for the storage of materials or equipment shall be located closer than one hundred (100) feet from a perennial or intermittent stream, regulated wetland, or floodplain.
- f. Suitable landscaping, including at least lawns and plantings shall be installed and maintained in accordance with Article IX and shall be subject to approval by the Planning Board. In addition to the requirements of Article IX, there shall be a buffer strip along the side and rear property lines. Such buffer strips shall be at least ten (10) feet in depth and may consist of interlocking trees and foliage with or without a fence in a manner acceptable to the Planning Board. The maintenance of the buffer strip shall be the continuing obligation of the property owner.
- g. Parking. All facilities must provide for on-site parking facilities. No on-street parking will be permitted. All parking lots must feature landscaped islands and, if adjacent to the public right-of-way, landscaped and grassy areas at least ten (10) feet in depth measured from the edge of the right-of-way.
- h. All applicants shall submit plans to the Planning Board including at least the following information:
 - i. The area dimensions and location of the industry.
 - ii. The number, location, and dimensions of all structures.
 - iii. The location and methods of containment of all outdoor hazardous material storage.
 - iv. Specifications of the water supply, sewage, and refuse disposal facilities, and proof of approval of said facilities from the Cayuga County Health Department.
 - v. Photometric lighting plan. No light spillage permitted offsite.
 - vi. Any additional information requested by the Planning Board.

21. Wind Energy Systems shall meet the requirements of Article XII.

Article VIII. Off-Street Parking and Loading

Section 8.01 - Intent

- A. The intent of this article is to prevent or alleviate congestion on public streets and to promote the public safety and welfare by establishing standards for the provision of off-street parking and loading spaces.

Section 8.02 - Applicability

- A. In all districts, every use shall provide, at the time of any change of use or when any building or structure is erected, enlarged or increased in capacity, off-street parking for motor vehicles in accordance with the requirements of this and other applicable sections of these regulations, especially site plan approval in accordance with Article VI and landscaping with Article IX.
- B. Loading spaces shall be provided and maintained on the same premises with every building or structure erected, occupied, enlarged or intended to be used, involving the receipt or distribution by vehicles of material or merchandise. No such activity shall use public right-of-way or parking area for standing, loading, and unloading services.

Section 8.03 - Location of Required Spaces

- A. Parking and loading spaces shall be located in accordance with the following:
1. For single-family and two-family dwelling units off-street parking shall be provided on the same lot with the building it serves.
 2. For multi-family dwellings and non-residential uses, required off-street parking shall be located as close to the use as possible, given site conditions, and in no case more than four hundred (400) feet from the building it is required to serve.
 3. The location, dimensions, and signage of handicapped parking shall meet the requirements of the New York State Uniform Fire Prevention and Building Code.

Section 8.04 - Required Off-Street Parking and Loading Spaces

- A. Parking Space. The following off-street parking provisions, provided in Section 8.04, Table 4, shall constitute the minimum space required for the following buildings and uses hereafter erected, converted, or otherwise established in any district. The Planning Board may reduce the number of required parking spaces if a property owner provides evidence of an undue hardship and the inability to provide the required number of spaces on the subject parcel. The Planning Board may require an alternative parking plan which may include off site or shared parking that meets the intent of the applicable requirements of Section 8.05 below.

Table 4: Town of Throop Zoning Required Parking	
Use Types	Number of Spaces
Accessory Dwelling Unit	1 space per dwelling unit.
Agriculture	No public parking required. Spaces for workers, as necessary shall be provided.
Bed and Breakfast	1 space per guest bedroom, plus one additional space per employee on the premises at one time.
Community/Social Building (including: Benevolent Society Club, Cultural Establishment, Fire Station, Funeral Home, Library)	1 space for each 50 square feet of gross floor area.

Table 4: Town of Throop Zoning Required Parking	
Use Types	Number of Spaces
Cannabis On-Site Consumption Lounge	1 space for each 50 square feet of floor area devoted to customer uses, plus 1 additional space for each employee on the premises at one time.
Child Day Care Center	1 space for every 6 children, plus 1 additional space per employee on the premises at one time.
Craft Beverage Industry or Drinking Establishment	1 space for each 50 square feet of floor area devoted to customer uses, plus 1 additional space for each employee on the premises at one time.
Drive-In Stand (Including Farm Stand and Garage Sales)	A sufficient number of off-street parking spaces to accommodate the maximum number of stopping vehicles at any one time, but in no case fewer than three (3) such spaces.
Dwelling, Multi-Family	1.5 spaces per dwelling unit.
Dwelling, Single or Two-Family	2 spaces per dwelling unit.
Educational Facility	5 spaces per classroom, plus 1 additional space per office.
Financial Institutions	1 space per 150 square feet of gross floor area.
Gasoline Station	1 space or every 500 square feet of store and business office space. Each pump station may be considered as a parking space.
Greenhouse/Nursery (Commercial)	1 space per 250 square feet of gross floor area, plus one additional space per employee on the premises at one time.
Health Care Facility	1 space for every 3 patient beds.
Home Occupation	2 spaces in addition to the requirements for the dwelling.
Hotel or Motel	1 space per guest bedroom, plus 1 space per employee on the premises at one time, plus spaces required by this section for on-site restaurants, banquet rooms and/or meeting rooms.
Industrial, Light	1 space per 500 square feet of gross floor area, plus 1 additional space per employee on the premises at one time.
Manufactured Home Park	2 spaces per dwelling unit.
Mixed-Use Building	Parking requirements for each use shall apply.
Motor Vehicle Repair Station or Detailing Shop	3 spaces for every garage bay, plus 1 additional space per employee on the premises at one time. A minimum of 5 spaces shall be provided.
Motor Vehicle Sales/Rentals	1 space per 150 square feet of gross floor area devoted to customer use. Parking spaces used for the storage and sale of vehicles shall not count towards parking requirements.
Nursing and Convalescent Home	1 space for every 3 patient beds.
Office, Professional	1 space per 150 square feet of gross floor area.
Personal Service Establishment	1 space per fixed seat, plus 1 additional space per employee on the premises at one time; or 1 space per 150 square feet of gross floor area if no fixed seats are provided.
Recreation, Indoor	1 space per 200 square feet of public use area, plus 1 additional space per employee on the premises at one time.
Recreational Vehicle, Park/Campground	1 space per dwelling or campsite, plus 1 space per 250 square feet of gross floor area of public or common area buildings, plus 1 additional space per employee on the premises at one time.
Religious Institution	1 space per 4 fixed seats.*

Table 4: Town of Throop Zoning Required Parking	
Use Types	Number of Spaces
Restaurant	1 space for each 50 square feet of floor area devoted to customer uses, plus 1 additional space for each employee on the premises at one time.
Retail Uses	1 space per 150 square feet of gross floor area.
Short Term Rental	1 space per rental unit.
Theater	1 space per 4 fixed seats.*
Warehousing, Wholesale Distribution	1 space per 2,000 square feet of gross floor area plus reservation of space for additional parking equal to 50% of required parking spaces.
Other Uses	The number of spaces shall be determined during site plan review. If no site plan review is required, the Code Enforcement Officer may refer the case to the Planning Board to review and provide guidance on the case. General guideline: A sufficient number of spaces to accommodate the expected number of vehicles stopping at the site when the site is at maximum permitted human occupancy. A general guideline is 1 space per 4 human occupants.

*When benches are provided rather than fixed undivided seats, each two linear feet of bench shall equal one seat. Where no fixed seats are used, each 50 square feet of floor area shall equal one seat.

- B. Loading and Unloading Space: Off-street loading and unloading space, sufficient to accommodate the maximum demand generated by the use of the lot, shall be provided on any lot on which a building for commercial use is hereafter erected or substantially altered. All off-street loading and unloading spaces shall have an all-weather surface to provide safe and convenient access and use during all seasons.

Section 8.05 - Alternate Parking

- A. The collective provision of off-street parking areas for two or more buildings or uses located on adjacent lots is permitted. Unless it has been demonstrated that joint use is appropriate in accordance with Subsection C below, the total of such off-street parking facilities shall not be less than the sum required for the various buildings or uses computed separately. Furthermore, the land upon which the collective facilities are located must be owned or leased by one or more of the collective users.
- B. Off-site parking. Up to fifty percent (50%) of the parking spaces required for a structure in Section 8.04 may be otherwise located upon approval by the Planning Board upon findings that:
 - 1. It is impractical to provide parking on the same lot with the structure.
 - 2. The required space is fully provided in a permanent and accessible manner.
 - 3. The off-site parking area is within five hundred (500) feet of the site of the structure and within the same or a less restricted district.
 - 4. Such off-site parking shall be subject to deed, lease or contract restrictions acceptable to the Municipal Attorney binding the owner, heirs or assigns to maintain the required number of spaces available throughout the life of such use.
- C. Joint use. The off-street parking requirement of two or more uses, structures, or parcels of land may be shown by the owners or operators of the uses, structures, or parcels that their operations and parking needs do not overlap at any point in time. If the uses, structures, or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract, or other appropriate written document to establish the joint use.

Section 8.06 - Non-Conforming Parking and Loading

- A. Neither building nor lot alterations, nor change of use shall be allowed which would increase the degree of non-conformity with the off-street parking and loading regulations of this Article.

Section 8.07 - Design Standards for Off-Street Parking

- A. All parking facilities provided under this article shall be located off the public right-of-way and each space shall have an all-weather surface, which may consist of gravel, crushed stone, concrete, or black top.
- B. Driveways and parking areas for nonresidential uses except home occupations shall include, within the property lines, turning areas so constructed and surfaced that a vehicle entering or leaving the property is not required to back onto the street.
- C. All Lighting shall be located such as to prevent the direct rays from shining upon adjacent properties.
- D. The size of standard perpendicular off-street parking spaces shall be a minimum of ten (10) feet wide by twenty (20) feet long and clear to a height of eight (8) feet, together with access aisles for maneuvering and passage to and from the public street. In all instances, the minimum width of the aisle shall be twenty-four (24) feet.
- E. Off-street parking areas shall include landscaping in accordance with Article IX.
- F. Where parking spaces abut sidewalks, landscaped areas, lighting fixtures, or fences, appropriate car stops shall be installed to prevent encroachment on or damage to such features.
- G. All off-street parking areas of more than twenty (20) spaces shall provide a snow-storage area independent of required parking and loading areas.
- H. No driveway to an off-street parking area shall be located closer than fifty (50) feet to the intersection of any two streets or within twenty (20) feet of any side lot line, provided that sufficient distance will always remain for all required radii for said driveway. The distances from the driveway to the intersection shall be measured by extending the curb-line of the intersecting street until it intersects the curb-line, extending if necessary of the driveway in question.
- I. Driveways shall be designed to provide for the safe and efficient movement of traffic between the roadway and the site, to eliminate the potential for stacking of vehicles along the public right-of-way and to minimize interference with pedestrians and vehicles using the site and the public right-of-way.
- J. Curb cuts for ingress and egress onto existing roadways shall be a maximum of twenty-five (25) feet for residential uses and thirty-five (35) feet for non-residential uses. The location and distance between curb cuts and to intersections shall be in accordance with NYS Department of Transportation design standards and Cayuga County Highway Department design standards as applicable.

Section 8.08 - Design Standards for Loading Facilities

- A. Required loading spaces shall be twelve (12) feet by thirty-five (35) feet, with a fourteen (14) foot height clearance. If tractor-trailer deliveries are expected, at least one (1) loading space twelve (12) feet by fifty-five (55) feet shall be provided.
- B. All required loading areas shall be independent of required of required emergency access lanes, parking areas and drive-in queuing lanes.

Article IX. Landscaping, Screening, and Buffering Requirements

Section 9.01 - Purpose and Intent

- A. The following standards are intended to implement the goals and policies of the Comprehensive Plan by assuring an acceptable extent of buffering between land uses, particularly between residential and non-residential uses, providing a balance between developed uses and open space, enhancing the visual and aesthetic appearance of the community, and encouraging preservation of existing natural features. Specifically, these regulations are intended to:
1. Provide natural visual screening of parking areas and along property boundaries to protect the existing visual quality of adjacent lands;
 2. Reduce surface runoff and minimize soil erosion through the natural filtering capability of landscaped areas;
 3. Provide natural buffers that reduce glare and noise, provide wildlife corridors and protect wildlife habitats, wetlands, stream corridors, and other significant environmental features;
 4. Moderate the microclimate of parking areas by providing shade, absorbing reflected heat from paved surfaces, and creating natural wind breaks; and
 5. Enhance the overall visual quality of the community by surrounding developed areas with a variety of plant materials that are consistent and compatible with the existing natural vegetation of the area.

Section 9.02 - Applicability

- A. These landscaping regulations shall apply to all uses in all districts. More specifically, requirements and procedures shall be as follows:
1. Development activities requiring site plan approval shall submit, as part of such approval, a landscaping plan in accordance with Article VI of this Law.
 2. Buffer screening shall be provided along the boundaries of any commercial or light industrial use or off-street parking lot which abuts a residential use; and shall be provided for any Special Use where such screening is required in accordance with Article VII of this Law.

Section 9.03 - General Requirements

- A. Existing site vegetation and unique site features, such as stonewalls, shall be incorporated into landscaping plans to the maximum extent feasible. Existing healthy trees which are retained shall be credited against the requirements of these regulations in accordance with their size and location.
- B. Issuance of a Certificate of Occupancy shall require completion of lot grading, seeding, and required landscaping or posting of a performance guarantee acceptable to the Code Officer if the applicant cannot perform the work due to seasonal impracticalities.
- C. All required landscaping shall be of healthy stock, planted according to accepted horticultural practices. Landscaping plans shall clearly indicate who is responsible for plant maintenance during the first twelve (12) months after planting, and a performance guaranty shall be posted for assuring replacement in kinds of plants, which die or become diseased with in that time.
- D. All required landscaping shall be maintained in healthy condition. Failure to maintain such landscaping or to replace dead or diseased landscaping required by this article shall constitute a violation of these regulations.
- E. All plant material adjacent to parking areas, loading areas and driveways shall be protected from damage from vehicles or from stormwater runoff by barriers, curbs or other means.

- F. Where existing conditions make compliance with these regulations not feasible, the Planning Board, at its discretion, may approve planters, plant boxes or pots containing trees, shrubs and/or flowers to comply with the intent of these regulations.
- G. In cases where the edge of pavement within a public right-of-way does not coincide with the front lot line, the property owner shall landscape the area between the front lot line and the edge of the street pavement.
- H. All parking lots must feature landscaped islands.
- I. Trees for screening shall be of species and stock that will provide a visual screen from the ground up, at least five (5) feet in height.
- J. Required buffer screening shall consist of a visual screen or obstruction of suitable shrubs, hedges, fences, or wall at least six feet high and shall be maintained in good condition.
- K. Shrubs, hedges, fences, or walls less than six (6) feet tall, along with trees or other plant material designed to enhance the livability and attractiveness of any lot may be located in any yard or court and shall be maintained in good condition.

Section 9.04 - Landscaping Plan

- A. Based on the scale and location of the project, the Planning Board shall determine whether the landscaping plan must be prepared by a professional such as a licensed landscape architect or landscape designer. All landscaping plans shall contain the following information:
 - 1. A title block with the name of the project, then name of the person preparing the plan, a scale, north arrow, and date.
 - 2. All existing significant plant materials on the site.
 - 3. Existing and proposed structures.
 - 4. Topographical contours at two-foot intervals.
 - 5. Parking areas.
 - 6. Access aisles.
 - 7. Drainage patterns.
 - 8. Location, size, and description of all landscape materials existing and proposed, including all trees and shrubs, and shall identify those existing plant materials that are to be removed.
 - 9. Other information as may be required by the Code Enforcement Officer and/or the Planning Board.
- B. Alternative landscaping plans may be submitted, provided that they meet the purpose and intent of these regulations.

Article X. Sign Regulations

Section 10.01 - Definitions

A. As used in this Article, the following terms shall have the meanings indicated:

ADVERTISING SIGN - Any sign designed to direct attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the same lot.

BANNER - A sign with or without characters, letters, illustrations, or ornamentations applied to cloth, paper, flexible plastic, or fabric of any kind with only such material for backing.

BUSINESS SIGN - A sign which directs attention to a business or profession conducted or to products sold upon the same lot. A "for sale" sign or a "to let" sign relating to the lot on which it is displayed shall be deemed a "business sign."

DECORATIVE BANNER - The term defining a banner(s) that is typically within a parking lot or along a public or private thoroughfare or street with a noncommercial copy decorative display, for example, seasons of the year or holidays for appearance and appeal to the public.

DIGITAL SIGN - The term defining an electronic message board used as a sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means that meets the sign regulations of this Law.

FLAG - The term defining any fabric, banner or bunting containing distinctive colors, patterns or symbols, which is mounted on a pole, and used as a symbol of government, political subdivision, institution, cause, event, group, activity, business or other similar entity. This definition does not include the use of flags for advertising such as, but not limited to, pennants, streamers and air induced figures.

FLASHING SIGN - Any illuminated sign on which the artificial light is not maintained stationary and constant in intensity or color at all times when in use.

ILLUMINATED SIGN - Any sign designed to give forth any artificial light or designed to reflect such light deriving from any source which is intended to cause such light or reflection.

OFF-PREMISES SIGN - A sign which directs attention to a person, business, profession, product, home occupation, or activity not conducted on the same lot.

ON-PREMISES SIGN - A sign which directs attention to a person, business, home occupation, or activity conducted on the same lot.

POLITICAL SIGN - A temporary sign announcing or supporting candidates or issues in connection with any national, state, or local election.

PROJECTING SIGN - The term defining any sign affixed to any building or wall whose leading edge extends more than twelve (12) inches beyond such building or wall, regardless if the sign can be read from one side or both sides.

SANDWICH BOARD - The term defining a sign located in front of a business and advertising such business, which is two sided, movable and not secured or attached to the surface upon which it is located and constructed in such a manner to form an "A" with a message or copy permitted on both sides. This term also includes "A-frame sign."

SIGN - Any structure or part thereof or any device attached to a structure or painted or represented on a structure which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as or which is to be in the nature of an announcement, direction or advertisement. A "sign" includes any billboard, pennant, announcement, or symbol designed to inform or attract the attention of persons not on the premises on which the "sign" is located. A "sign" does not include temporary real estate "for sale", A-shaped signs, political campaign signs, or paper

posters announcing temporary events, provided that such are not in excess of four square-feet (length by width).

SIGN APPURTENANCES - The term defining items such as, but not limited to, balloons, flags, or streamers used to draw attention to a temporary sign.

SIGN SPINNER - A person holding an advertising or similar promotional sign for a business and using movement, including but not limited to holding, rotating, spinning or walking, to attract attention to the general public.

TEMPORARY SIGN - The term defining an attached or freestanding sign, banner, pennant or advertising display on the premises of what the sign is advertising as required and limited to be displayed as regulated by this Law, for display, sales, specials, special events, promotions, holidays, auctions, business grand openings, and signs advertising the lease or vacancy of commercial space or residential units. Symbols, figures, balloons and other similar items shall be interpreted as temporary signs.

YARD SIGN - A type of temporary sign including but not limited to yard sale signs, political signs and real estate signs.

Section 10.02 - Administration

- A. Signs requiring a permit. Unless otherwise provided by this Article, all signs regulated herein shall require a sign permit. All signs must comply with all the regulations contained herein, irrespective of whether a sign permit is required. Any sign erected without securing a required sign permit and approval of such shall be considered an illegal sign for the purposes of this Law.
- B. Planning Board Review. Prior to issuance of a sign permit, the Code Enforcement Officer shall forward all sign applications to the Planning Board for review and approval. In addition to the provisions of this Zoning Law, the Planning Board may set additional general guidelines for reviewing and approving sign permit applications, which shall be forwarded to the applicant for their reference. Where site plan approval is required by this article or elsewhere in the regulations of the Town for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, and general site compatibility of all proposed signage.
- C. Signs not requiring a sign permit. The following signs are allowed without a sign permit and are exempt from Planning Board review and approval, provided they conform to any applicable standards herein provided for the specific type of sign:
 1. Decorative banner.
 2. Flags.
 3. Sandwich board sign. Sandwich board sign. A sandwich board sign is permitted in accordance with the following standards:
 - a. Sign surface area. A sandwich board sign shall not exceed six (6) square feet per side and a total aggregate of twelve (12) square feet.
 - b. Maximum height. Such signs shall not exceed forty-two (42) inches in height.
 - c. Clearance. The location of a sandwich board sign shall not interfere with pedestrian movement.
 - d. Duration of display. Such signs shall be displayed during business hours only and shall be removed and placed inside the premises during hours when the business is not in operation.
 - e. Anchoring. A sandwich board sign shall be temporarily secured to prevent such sign from creating a hazard due to high winds or storms. It is the responsibility of the business owner to secure such sign.

- f. Maximum quantity. One (1) sandwich board sign is permitted per business or establishment.
 4. Sign Spinner. A sign spinner may be permitted in accordance with the following standards, unless otherwise regulated by this Article.
 - a. Location. The sign spinner shall be clearly located on private property and in front of the business for which the sign is advertising, and shall not interfere with required vehicular or pedestrian travel ways on such private property.
 - b. Prohibited in public right-of-way. A sign spinner is prohibited in a public right-of-way. Public right-of-way includes the thoroughfare or street and the public sidewalk.
 - c. Violation. If sign spinner, and/or business utilizing a sign spinner, is found to be in violation of the provisions of this subsection, notice may be provide by personal notice to the sign spinner or business owner, or by first-class mail to the business owner, requiring an immediate cease of advertising using the sign spinner.
 5. Traffic control device on private property.
 6. Yard sign. Yard signs shall be permitted in accordance with the standards provided herein, and typically include but are not limited to yard sale signs, political signs and real estate signs.
 - a. Sign surface area. The total aggregate sign surface area of all yard signs on a lot or parcel shall not exceed ten (10) square feet.
 - b. Maximum height. The maximum height of a yard sign shall be forty-two (42) inches.
 - c. Duration of display. Yard signs shall be removed within seven (7) calendar days of the termination of the event or election.
 - d. If the sign is not removed within seven (7) days, the sign may be removed by the Town at the costs incurred will be paid by the owner of the sign.
- D. The following shall not be included in the application of the regulations:
1. Flags and insignia of any government, except when displayed in connection with commercial promotions.
 2. Legal notices, identification or informational or directional signs erected or required by governmental bodies.
 3. Signs directing and guiding traffic and parking on private property but bearing no advertising matter and conforming to the regulations set forth in the New York State Department of Transportation Manual of Uniform Traffic Control Devices.

Section 10.03 – Sign Identification for Determining Number of Allowed Signs

- A. For the purpose of determining the number of signs, a "sign" shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without an organized relationship of elements or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single "sign."

Section 10.04 - Sign Area

- A. The area of sign shall be constructed to include all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed.
- B. Structural members other than decorative frames, for the purpose of supporting signs and not bearing advertising matter, shall not be included in computation of surface area.

- C. The area of a sign painted upon or applied to a building shall be considered to include all lettering, wording and accompanying designs and symbols, together with any backing associated with the sign.
- D. Where the sign consists of individual letters or symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.
- E. In computing square foot area of two-sided signs with display surfaces on both sides, each side shall be considered a separate sign.

Section 10.05 – Building Permit Required

- A. All signs over ten (10) square feet in area, except official traffic signs and other official governmental signs regardless of size, shall require the issuance of a building permit before erection or replacement. All signs must comply with all of the regulations contained in this Article, regardless of whether a permit is required.

Section 10.06 - Restrictions

- A. The following requirements shall apply to all signs, regardless of whether a permit is required:
 - 1. Sign illumination. Illumination of signs is determined based on the specific type of sign proposed. Where permitted in accordance with the sign type proposed, whether illuminated internally or externally, the following standards shall be met:
 - a. Shielding. External lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine or provide glare directly into the public right-of-way or onto adjacent property.
 - i. No illuminated sign or outdoor illumination shall be erected or used so that light will directly reflect toward residences on adjoining lots, toward residential districts within one thousand (1,000) feet or toward a highway so as to create a traffic hazard.
 - b. Wiring. All wiring for signs and lighting equipment signage shall be installed underground and internally for free standing signs and internally from building walls for attached signs.
 - c. Flashing or intermittent lighting. No sign shall contain or be illuminated by flashing or intermittent light, or by lights of changing degrees or intensity, regardless of the type of sign for which it is intended. This shall not apply to digital signage, as otherwise regulated by this Article.
 - 2. Changeable copy & digital signage. Changeable letters or messages on a sign are permitted by manual attachment and removal or digitally.
 - a. Manual changeable letters. A sign using manual changeable letters/message shall not exceed twenty-five (25) square feet in surface area per side of the sign.
 - b. Digital display. The use of digital display, or changeable letters or message, shall be permitted on freestanding signs only and shall be in accordance with the following provisions:
 - i. Supplemental use. Digital display is permitted as a supplemental means of conveying a message using LED lighting or equal on permanent freestanding signs.
 - ii. Maximum surface area. The maximum surface area for digital display signs, including the digital display area and any framing, shall not exceed twenty-five (25) square feet per side of the sign.

- iii. Message or copy cycle. The message or copy changes or alteration shall operate at not less than a ninety (90) second cycle. Movement of any image, scrolling, flashing, change of light intensity and the like shall only occur during message change cycle, which shall be limited to five seconds.
 - iv. Off-premises signage. The provisions for digital display cannot be utilized for the purpose of off-premises signage, as permitted by this Article, except where provided for the purpose of public safety or public information by a governmental entity.
3. Projecting Signs:
- a. The total area of all such signs placed on any on building shall not exceed two (2) square feet per side of the sign.
 - b. No portion of a projecting sign may be higher than the top of the building.
 - c. No portion of a projecting sign may be located higher than the second floor of the building.
 - d. Any part of a sign extending over pedestrian areas must have a minimum height clearance of ten (10) feet.
 - e. The projecting sign may not project more than three (3) feet from the building line and shall not be nearer than four (4) feet to the curb line of the street.
 - f. The sign post or bracket is not included in the signage calculation.
4. Dimensional Requirements:
- a. No sign shall be located within ten (10) feet of any property line.
 - b. No sign shall be located in the street right of way.
 - c. Sign Area. The area of any sign shall not exceed twenty-five (25) square feet, except that advertising signs located along Route 38 may exceed twenty-five (25) square feet but shall not exceed two hundred (200) square feet. The Planning Board may further restrict the size of the sign to conform to any sign guidelines set by the Planning Board. Sign area measurements shall follow the requirements listed in Section 10.03 above.
 - d. Height:
 - i. Sign height shall be measured from finished grade to the top of the sign, with the exception that signs located within fifteen (15) feet of a road right of way shall be measured from the height of the centerline of the road to the top of the sign.
 - ii. Signs shall not project above the height limit permitted in any district in which they are located, as prescribed in Section 5.01, Table 2. No sign attached to a building in any district shall project above the height of the wall upon which it is attached.
5. Off premise signs: Applicants for off premise signs requiring a building permit shall provide a deed, lease, contract, or other appropriate written document establishing an agreement between the landowner and the sign owner.
6. All signs except temporary signs shall be constructed of durable material and kept in good condition.
7. Advertising display upon any structure shall be regarded as a sign subject to this Law.

8. Nonconforming signs, once removed, shall be replaced only with conforming signs; however, nonconforming signs may be repainted or repaired, provided that such repainting or repair does not exceed the dimensions of the existing sign.

Section 10.07 - Prohibited Signs

- A. Prohibited signs are signs that have been erected that do not meet the standards of this Article, signs that are not maintained or have been abandoned, signs that are determined to be dangerous and cause distractions by the passing motorist and/or any other unsafe condition that a sign may create affecting the public safety and welfare of the Town. Additionally, the following signs are expressly prohibited within the Town of Throop:
 1. Abandoned sign. Any sign not utilized or advertising a business not in operation for a period exceeding ninety (90) calendar days shall be considered abandoned and therefore prohibited.
 2. Flashing & moving sign or device. Except as specifically permitted and approved in accordance with this Article, any moving sign or device designed or used to attract attention, which may or may not including flashing or movement, or devices displaying flashing, intermittent or changing degree of intensity lighting, creating a special effect, beacon, flutter, rotation or other movement, set in motion by movement of the atmosphere or by mechanical, electrical or any other means, shall be prohibited. This includes but is not limited to bunting, pennants, pinwheels, propellers, streamers, balloons or other inflatables, banners or discs, spotlights, searchlights and high intensity illuminated signs, except as specifically permitted and approved in accordance with this Article.
 3. Imitation of official sign. Any sign which is a copy or imitation of an official sign, or which purports to have official status is prohibited.
 4. Materials not intended for use as a sign. Any material not intended for use as a sign, including but not limited to tires, shall be prohibited for purposes of signage or advertising, unless expressly provided by this Article.

Article XI. Solar Energy Systems

Section 11.01 – Applicability and Purpose

- A. The provisions of this Article apply to Accessory Solar Energy System installations which are permitted subject to the conditions herein. Utility Scale Solar Energy System installations as defined in Section 11.02 of this Article are prohibited in the Town of Throop, with the exception of solar energy systems governed by Article VI, Section 94-C of the Executive Law of New York State and approved by the New York State Office of Renewable Energy Siting. All Utility Scale Solar Energy Systems approved by the New York State Office of Renewable Energy Siting shall submit a payment to the Town in accordance with the fee schedule adopted by resolution of the Town Board. The Code Enforcement Officer shall review and approve of all Accessory Solar Energy System installations.
- B. The purpose of this Article is to provide for the siting, development, and decommissioning of solar energy projects in the Town of Throop, subject to reasonable conditions that promote and protect the public health, safety, and welfare of the community while promoting development of renewable energy resources, including:
1. Taking advantage of a safe, abundant, renewable, and non-polluting energy resource;
 2. Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses; and
 3. Increasing employment and business development in the region by furthering the installation of Solar Energy Systems.

Section 11.02 - Definitions

- A. As used in this Article, the following terms shall have the meanings indicated:

ARRAY - Any number of electrically connected photovoltaic modules providing a single electrical output.

BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM – A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass or other façade material, semitransparent skylight systems, roofing materials and shading over windows.

FREE-STANDING/GROUND-MOUNTED - A solar energy system that is installed in the ground and is not attached or affixed to an existing structure. Pole-mounted solar energy systems shall be considered freestanding or ground-mounted solar energy systems for purposes of these regulations.

QUALIFIED INSTALLER - A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition.

ROOFTOP OR BUILDING-MOUNTED - A solar energy system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

SOLAR ENERGY SYSTEM - A renewable energy project that either (a) generates electricity from sunlight, consisting of one or more photovoltaic (PV) systems and other appurtenant structures and facilities within the boundaries of the site, or (b) utilizes sunlight as an energy source to heat or cool buildings, heat or cool water, or produce electrical or mechanical power by means of any combination of collecting, transferring, or converting solar-generated energy.

1. **ACCESSORY SOLAR ENERGY SYSTEM** - Accessory solar energy systems are designed for a home, business, or agricultural use where the primary use of the property is either household living, a commercial activity, or an agricultural activity. Accessory solar energy systems have a rated capacity of anything under 25 kilowatts and are designed to meet the specific energy needs of the principal use. Accessory scale solar energy systems may be rooftop installations, or freestanding installations that are either ground- or pole-mounted. Accessory scale solar energy systems must meet at least one of the following criteria: (1) Has a disturbance zone equal to or less than two acres; (2) Is mounted on or over a building, parking lot, or other previously-disturbed area; (3) or Utilizes integrated PV only. An accessory use is defined as a secondary activity incidental to the primary use of the property. Also referred to as non-utility scale solar energy system.
2. **UTILITY SCALE SOLAR ENERGY SYSTEM** - Considered a public utility and developed as a primary land use. Utility scale solar energy systems are typically freestanding, and the principal economic function of the land hosting a utility scale solar energy system is producing solar power for off-site consumption. Utility scale solar energy systems have a minimum rated capacity of 25 kilowatts, but are usually multiple megawatts, and may cover anywhere from tens to thousands of acres of land. These installations primarily supply power for offsite consumption through the electrical grid. Also referred to as a “solar farm”.

SOLAR PANEL – A photovoltaic device capable of collecting and converting solar energy into electrical energy.

Section 11.03 - Accessory Solar Energy System Requirements

- A. Accessory solar energy systems are permitted in accordance with the provisions herein. Building permits shall be required for installation of rooftop and building-mounted solar collectors.
- B. All accessory solar energy systems are subject to the following requirements:
 1. The location of the solar panels shall meet all applicable setback requirements of the Zoning District in which they are located.
 2. Solar collectors and other facilities shall be designed and located in order to prevent reflective glare toward any roads and inhabited buildings on adjacent properties.
 3. Where site plan approval is required by this article or elsewhere in the regulations of the Town for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, and general site compatibility of all proposed solar collectors.
 4. All solar collector installations must be performed in accordance with applicable electrical and building codes, the manufacturer’s installation instructions, and industry standards, and prior to operation the electrical connections must be inspected by the Town Code Enforcement Officer or by an appropriate electrical inspection person or agency, as determined by the Town.
 5. When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of Cayuga County and other applicable laws and regulations.
 6. Abatement and Decommissioning: If the solar energy system is not operated for a continuous period of twelve (12) months, the Code Enforcement Officer will contact the applicant by registered mail and provide forty-five (45) calendar days for a response. The applicant is required to respond and set forth reasons for the stoppage and a timetable for action. If the Code Enforcement Officer has made all reasonable efforts to notify the applicant but the applicant does not satisfactorily respond, the Code Enforcement Officer can request the Town

Board to contract for removal and restoration using the money in the decommissioning bond, after salvage value, and charge the applicant any difference in cost.

C. Rooftop and Building-Mounted Accessory Solar Energy Systems are subject to the following additional requirements:

1. Rooftop and Building-Mounted Accessory Solar Energy Systems are permitted as an accessory use in the Agricultural (A), Low Density Residential (R1), Medium Density Residential (R2), and Commercial (C) Zoning Districts when attached to any lawfully permitted building or structure.
2. Height. The exemptions to maximum building height, as written in Section 5.01, F of this Law, may be granted to rooftop or building-mounted solar energy systems.
3. Aesthetics. Roof-mounted solar energy system installations shall incorporate, when feasible, the following design requirements:
 - a. Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of eighteen (18) inches between the roof and the highest edge of the system.

D. Free-Standing/Ground-Mounted Accessory Solar Energy Systems are subject to the following additional requirements:

1. Free-Standing and Ground-Mounted Accessory Solar Energy Systems are permitted as an accessory use in the Agricultural (A), Low Density Residential (R1) and Commercial (C) Zoning Districts only.
2. Proposed solar energy systems shall obtain site plan approval in accordance with the requirements of Article VI of this law.
3. Electricity produced shall be primarily used onsite.
4. Solar panels shall be located in the side or rear yard.
5. Lot Coverage. The surface area covered by ground-mounted solar panels shall be included towards total lot coverage and the calculation of maximum allowed lot coverage.
6. Height. The maximum height for freestanding solar panels located on the ground or attached to a framework located on the ground shall not exceed fifteen (15) feet in height above the ground.
7. Landscaping and Buffering:
 - a. Suitable landscaping shall be installed and maintained in accordance with Article IX and shall be subject to approval by the Planning Board.
 - b. In addition to the requirements of Article IX, sufficient screening shall be provided to block all views of the proposed Solar Energy System from adjacent properties when viewed from ground level.
8. Decommissioning and Site Restoration Plan:
 - a. The plan shall include:
 - i. The anticipated life of the Solar Energy System;
 - ii. Triggering events for decommissioning and removal;
 - iii. The estimated decommissioning costs in current dollars;
 - iv. How the estimate was determined;
 - v. Provision for a re-estimate of such decommissioning costs every five (5) years by a professional engineer licensed in New York State; and

- vi. The manner in which the Solar Energy System will be decommissioned and the site restored including removal of all structures, panels, cabling, electrical components, debris, and foundations to a depth of thirty six (36) inches, restoration of the soil and vegetation, and restoration of roads and driveways, less any fencing or residual minor improvements requested by the landowner.

9. Bond:

- a. A decommissioning bond payable to the Town of Throop in an amount to be determined by the Town Board for removal of nonfunctional Solar Energy System and restoration of the site shall be maintained by the applicant.
- b. The bond, letter of credit, or other equivalent form of security must be confirmed to be sufficient to cover decommissioning and site restoration costs every five (5) years.

Article XII. Wind Energy Systems

Section 12.01 – Purpose and Intent

- A. The purpose of this Article is to promote the effective and efficient use of the Town’s wind energy resource through Wind Energy Conversion Systems (WECS), and to regulate the placement of such systems so that public health, safety, and welfare will not be jeopardized.
- B. This Article is intended to properly regulate and site wind energy facilities in order to capture their potential benefits, and deal with their potential negative impacts, including the following considerations:
1. Wind energy is an abundant, renewable and non-polluting energy resource of the Town and its conversion to electricity may help reduce dependence on nonrenewable energy sources and decrease the air and water pollution that results from the use of conventional energy sources.
 2. The generation of electricity from properly sited wind turbines, including small systems, can be cost effective, and in many cases existing power distribution systems can be used to transmit electricity from wind-generation stations to utilities or other users, or energy consumption at that location can be reduced.
 3. Regulation of the siting and installation of wind turbines is necessary for the purpose of protecting the health, safety, and welfare of neighboring property owners and the general public.
 4. Wind Energy Facilities have the potential to cause significant aesthetic impacts if not properly sited, because of their large size, lighting, and shadow flicker effects.
 5. If not properly regulated, installation of Wind Energy Facilities have the potential to create drainage problems through erosion, lack of sediment control for facility, access road sites and harm farmlands through improper construction methods.
 6. Wind Energy Facilities may present a risk to bird and bat populations if not properly sited.
 7. If not properly sited, Wind Energy Facilities have the potential to adversely impact neighboring properties, including the property values of such properties.
 8. Wind Energy Facilities are potentially significant sources of noise, and if such facilities are unregulated or improperly sited, or if such impacts are inadequately mitigated, they can negatively impact adjoining properties.
 9. Without proper planning, construction of Wind Energy Facilities can create traffic problems and damage local roads.
 10. If improperly sited, Wind Energy Facilities can interfere with various types of communications.

Section 12.02 – Definitions

- A. As used in this Article, the following terms shall have the meanings indicated:

ACCESSORY FACILITIES OR EQUIPMENT - Any structure other than a wind turbine, related to the use and purpose of deriving, collecting or distributing energy from such wind turbines located on or associated with a wind energy facility.

AGRICULTURAL LAND - The land and on-farm buildings, equipment, manure processing, and handling facilities and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise, including a commercial horse boarding operation, as defined in Subdivision 13 of New York Agriculture and Markets Law § 301,

and timber processing, as defined in Subdivision 14 of New York Agriculture and Markets Law § 301. Such operations may consist of one or more parcels of owned or rented land which may be contiguous or noncontiguous to each other. The use of land for agricultural production purposes, including tilling of the soil, dairying, pasture, animal and poultry husbandry, apiculture, arboriculture, horticulture, floriculture, viticulture, and accessory uses for packing, storing, processing and retail sales of products, provided that the operation of any such accessory uses shall be secondary to that of the principal agricultural production activities.

NON-PARTICIPATING RESIDENCE - Any dwelling for habitation, either seasonally or permanently, by one or more persons that have not entered into any agreement with a wind energy developer to allow for a WECS on or near their property. A residence may be part of a multi-dwelling or multi-use building and shall include buildings such as hotels, hospitals, motels, dormitories, sanitariums, long term care facilities, schools or other buildings used for educational purposes, or correctional institutions.

OVERSPEED CONTROL - A mechanism used to limit the speed of blade rotation to below the design limits of the WECS.

PARTICIPATING RESIDENCE - Any dwelling for habitation, either seasonally or permanently, by one or more persons that has entered into an agreement with a wind energy developer to allow a WECS on or near their property. A residence may be single-family or may be part of a multi-dwelling or multi-use building and shall include buildings such as hotels, hospitals, motels, dormitories, sanitariums, long term care facilities, schools or other buildings used for educational purposes, or correctional institutions.

PERMANENT WIND MEASUREMENT TOWER - A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction that is installed to permanently monitor wind conditions for the life of a project.

PUBLIC ROAD - Any federal, state, county, city, town or village road which is open to the public, or private road regularly used by multiple persons for access to separate off-site parcels of land, access to which is unrestricted by the owner(s) of said private road.

SITE - The parcel(s) of land where the WECS is to be placed including related tower and transmission equipment. The site may be publicly or privately owned by an individual or group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements.

TEMPORARY WIND MEASUREMENT TOWER - A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction installed prior to construction of a WECS for wind site assessment which remains in place for a limited period of time. The data provided allows the developer to determine the economic viability of the project as well as to select the optimal type of turbine for the location.

TOTAL HEIGHT - Height of WECS measured from ground elevation to top of tip of blade in vertical position, at its furthest vertical extension.

TOWER - Support structure, including guyed, monopole, and lattice types, upon which wind turbine or other mechanical device is mounted.

WIND ENERGY CONVERSION SYSTEM (“WECS”) - A machine that converts the kinetic energy in the wind into a usable form (commonly known as a “wind turbine” or “windmill”). A WECS can be commercial or non-commercial. A WECS may include one or more wind turbines, towers, associated control or conversion electronics, transformers, and/or maintenance and control facilities or other components used in the system. The turbine or windmill may be on a horizontal or vertical axis, rotor, or propeller.

1. **LARGE WIND ENERGY CONVERSION SYSTEM** - A Wind Energy Conversion System (“WECS”) consisting of one wind turbine, one tower, and associated control or conversion electronics which has a rated capacity greater than one hundred and fifty (150) kilowatts and is intended to supply some portion of its produced electrical power for sale to a power grid. WECS with a rated capacity of twenty five (25) megawatts or more are governed by Article VI, Section 94-C of the Executive Law of New York State.
2. **SMALL WIND ENERGY SYSTEMS** - A WECS consisting of one wind turbine, one tower, and associated control or conversion electronics which has a rated capacity of greater than ten (10) kilowatts but not more than one hundred and fifty (150) kilowatts and a total height of greater than fifty (50) feet but not more than one hundred (100) feet.
3. **VERY SMALL WIND ENERGY CONVERSION SYSTEM** - A WECS consisting of one wind turbine, one tower (or other mounting system), and associated control or conversion electronics which has a rated capacity of ten (10) kilowatts or less and a total height of fifty (50) feet or less.

WIND ENERGY FACILITY - Any WECS or wind measurement tower, including all related infrastructure, electrical lines and substations, access roads and accessory structures that are under common ownership or operating control.

Section 12.03 - Applicability

- A. No wind energy facility shall be constructed, reconstructed, or modified in the Town of Throop except in compliance with this article.
- B. Wind energy facilities for which a required permit has been properly issued and upon which construction has commenced prior to the effective date of this article shall not be required to meet the requirements of this section, however;
 1. Any such preexisting wind energy facility which does not provide energy for a continuous period of twelve (12) months shall meet the requirements of this section prior to recommencing production of energy.
- C. No modification or alteration, excluding regular maintenance and repair, to an existing wind energy facility shall be allowed without full compliance with this section.

Section 12.04 – Permits Required

- A. Very Small Wind Energy Conversion Systems
 1. Very Small WECS are permitted as accessory uses in the Agricultural (A), Commercial (C), and Low Density Residential (R1) Zoning Districts.
 2. Very Small WECS may be constructed, reconstructed, or modified without being issued a special use permit.
 3. A building permit is required for the installation of all Very Small WECS.
 4. Very Small WECS must comply with the following safety standards:
 - a. The minimum distance from the ground to the rotor blade tips shall not be less than ten (10) feet.
 - b. Each Very Small WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the blade within the design limits of the rotor. Manual electrical and/or overspeed shutdown disconnect switches shall be provided and clearly labeled on the wind turbine structure. No Very Small WECS shall be permitted which lacks an automatic braking, governing, or feathering system to

prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

5. Very Small WECS must otherwise comply with setback, nuisance, environmental and visual effects, and operation and maintenance standards described in Section 12.08, B through F herein and the enforcement and violations provisions of Section 12.13 herein.

B. Small Wind Energy Conversion Systems

1. One (1) small WECS tower shall be allowed per legal lot to provide energy to the home or farm on the same lot. Small WECS are permitted in the Agricultural (A) Zoning District with a special use permit, for the purpose of producing electricity for use primarily on-site.
2. No Small WECS shall be constructed, reconstructed, or modified in the Town of Throop except pursuant to special use permit and site plan approval from the Planning Board issued in accordance this article.
3. No Small WECS wind energy facility shall be constructed, reconstructed, or modified in except pursuant to a building permit from the Code Enforcement Officer.

C. Large Wind Energy Conversion Systems

1. Large WECS, as defined herein, are prohibited in all zoning districts in the Town of Throop.

Section 12.05 - Applications for a Small WECS

A. In addition to the requirements for Special Use Permits in Article VII of this Law, an application for a special use permit for a Small WECS shall include the following:

1. Name, address, and telephone number of the applicant and landowner and affidavit of agreement between landowner and facility owner, if any.
 - a. If the applicant will be represented by an agent, the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the agent to represent the applicant.
 - b. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (1) confirming that the property owner is familiar with the proposed applications and (2) authorizing the submission of the application.
2. Address or other property identification of each proposed facility including tax map number, existing use and acreage of parcel, and zoning designation.
3. A description of the facility and project including data pertaining to the tower's safety and stability, including:
 - a. Safety results from test facilities
 - b. Certification from the turbine manufacturer that the turbine is manufactured to operate at safe speeds
 - c. The make, model, and manufacturing specifications including noise decibel data, maximum rated capacity, and evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.
 - d. Sufficient information demonstrating that the system will be used primarily to reduce consumption of electricity at that location.
 - e. Written evidence that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-

- owned electricity generator, unless the applicant does not plan, and so states so in the application, to connect the system to the electricity grid.
4. Vertical drawing of the WECS showing total height, turbine dimensions, tower and turbine colors, ladders, distance between the ground and the lowest point of any blade, and the location of climbing pegs and access doors.
 5. A plot plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly show the following:
 - a. Property lines, physical dimensions of the site, and the location, dimensions and types of existing structures and uses on the site.
 - b. Public roads and access roads.
 - c. Adjoining properties within five hundred (500) feet of the site including zoning designations, residences, schools, churches, hospitals, and libraries within one thousand (1,000) feet of each tower.
 - d. Location and size of structures above 35 feet within a five-hundred-foot radius of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open lattice towers are not considered structures.
 - e. The proposed location, elevation, and total height of the WECS.
 - f. Above- and below-ground utility lines within a radius of one and a half (1.5) times the total height of the WECS.
 - g. Setback lines. In addition to all setback lines, to demonstrate compliance with the setback requirements of this Article, circles drawn around each proposed tower located to:
 - i. One and a half times the tower height. For any WECS sixty-five feet (65') or less in total height; two times the tower height for any WECS greater than sixty-five feet (65') but not greater than one hundred feet (100').
 - ii. Five-hundred-foot (500') and one-thousand-foot (1,000') perimeter circles.
 - h. All other proposed facilities on the site including access roads, transformers, electrical lines, storage or maintenance units, ancillary equipment or structures, transmission lines, and fencing.
 6. A full Environmental Assessment Form ("EAF") and visual EAF addendum.
 7. A copy of written notice of the application to the Federal Aviation Administration ("FAA"), microwave communications link operators, and electric utilities, including utility interconnection data and a proposed lighting plan to be reviewed by the FAA showing FAA required lighting, if applicable and other proposed lighting.
 8. Fire Protection and Emergency Response: Applications shall include a fire protection and emergency response plan, created in consultation with the Fire department(s) having jurisdiction over the proposed Site. Procedures acceptable to the Town Planning Board for emergency shutdown of power generation units created in consultation with the Fire Department shall be established and posted prominently and permanently on the access of the individual unit.
 9. A preliminary transportation plan describing ingress and egress to the proposed project site to deliver equipment and provide access during and after construction. Such plan shall describe any anticipated improvements to existing roads, bridges, or other infrastructure, as well as

measures which will be taken to restore damaged or disturbed access routes following construction.

10. A survey map showing federal, state, county or local parks, recognized historic or heritage sites, state-identified wetlands, or important bird areas within a radius of five (5) miles, as identified in federal, state, county, local or New York Audubon's GIS databases or other generally available documentation.
11. A list of property owners, with their mailing addresses, within five hundred (500) feet of the outer boundaries of the proposed site.
12. Studies or reports on:
 - a. Visual impact. This shall include a computerized photographic simulation showing the site fully developed and demonstrating any visual impacts from strategic vantage points. Color photographs of the proposed site from at least two locations accurately depicting the existing conditions shall be included. The study shall also indicate the color treatment of the facility's components and any visual screening incorporated into the project that is intended to lessen visual prominence.
 - b. Noise. This shall include a description and map of the project's noise-producing features and the noise-sensitive environment, including the range of noise levels and the tonal and frequency characteristics expected. The report shall include noise levels at property lines, off-site residences, and any other sensitive noise-receptors, i.e. hospitals, libraries, schools, and places of worship, with identification of potential problem areas. The report shall cover low frequency, A-weighted, pure tone, and repetitive/impulsive noise. It shall also include a report prepared by a qualified professional that analyzes the preexisting ambient noise. The report shall describe the project's proposed noise-control features, including specific measures proposed to protect construction workers and mitigate noise impacts for sensitive receptors, consistent with levels in this article.
 - c. Electromagnetic interference. This shall include an analysis of the potential for electromagnetic interference with microwave, radio, television, personal communication systems, 911, and other wireless communication.
 - d. Avian impact. This shall include an analysis of bird and bat migration, nesting, and habitat that would be affected by the proposal. The applicant shall solicit input from the New York State Department of Environmental Conservation and U.S. Fish & Wildlife Service on such studies and shall follow any pertinent protocols established, adopted, or promulgated by the Department.
 - e. Geotechnical impact. This shall at a minimum include an analysis of soils engineering and engineering geologic characteristics of the site based on on-site sampling and testing, foundation design criteria for all proposed structures, slope stability analysis, grading criteria for ground preparation, cuts and fills, and soil compaction.
 - f. Engineer's report. This shall be prepared by a professional engineer licensed in New York State and provide information regarding:
 - i. Ice throw. The report shall calculate the maximum distance that ice from the turbine blades could be thrown.
 - ii. Blade throw. The report shall calculate the maximum distance that pieces of the turbine blades could be thrown.
 - iii. Catastrophic tower failure. The report shall include a statement from the turbine manufacturer detailing the wind speed and conditions that the turbine is designed to withstand.

- iv. Certification by a registered New York State professional engineer that the foundation and tower design are sufficient to withstand wind-loading requirements for structures as established by the New York State Uniform Construction Code.
- g. Shadow flicker. This shall identify locations where shadow flicker may interfere with off-site residences and roadways and the expected duration of the flicker. The study shall identify measures that shall be taken to eliminate or mitigate the problem.
- h. Land use and water impacts. This shall detail potentially impacted wetlands, surface water and groundwater resources, and the geology and land use of the site.
- i. Property Values. Applications shall include a property value analysis prepared by a licensed appraiser in accordance with industry standards, regarding the potential impact of values of properties neighboring WECS sites. Such analysis should include actual data concerning the impacts of previously constructed facilities in the State of New York on property values. This analysis shall be presented to the Town Board for its consideration.

Section 12.06 - Application Review Process for a Small WECS

- A. Application. Applicants for a special use permit for a Small WECS must submit the application in accordance with the procedures for special use permit review provided in Article VII.
- B. Review Procedure. In addition to the requirements of this Article, the procedure and criteria for the Planning Board's review and approval of a Special Use Permit for a Small WECS shall be in accordance with the procedures in Article VII.
- C. Findings. To grant the special use permit, the Planning Board must find that the wind energy facility will not unreasonably interfere with the Town's orderly land use and development plans, the benefits to the applicant and the public exceed the burdens, the project is not detrimental to the public health, safety, or general welfare of the community, and the project complies with all of the relevant provisions of the zoning law or will comply with those requirements based on conditions that may be attached to the approval unless variances have been granted.
- D. Consultants. The Town reserves the right to hire any consultants and/or experts reasonably necessary to assist the Planning Board in reviewing and evaluating permit applications. All fees for such consultants shall be borne by the applicant in accordance with Article XVI, Section 16.05 of this Law.

Section 12.07 - Environmental Review for a Small WECS

- A. Any applicant for a wind energy project of more than ten (10) kilowatts shall complete an Environmental Impact Statement (EIS) in accordance with SEQRA or other state equivalent pursuant to 6 NYCRR Part 617.
- B. In addition to any other requirements mandated in 6 NYCRR Part 617, the EIS shall include the following:
 - 1. A detailed construction and installation plan for the wind energy facility including: a construction schedule, hours of operation, routes to be used by vehicles, gross weights and heights of vehicles, traffic impacts, drawings of access roads, adverse sound impacts, a detailed plan for disposal of debris, and the name and phone number of a contact person in the field.
 - 2. An operation and maintenance plan that provides for regular maintenance schedules for the Small WECS and any special maintenance requirements.
 - 3. A final transportation plan describing ingress and egress to the project site to deliver equipment and provide access during and after construction. Such plan shall describe any

anticipated improvements to existing roads, bridges, or other infrastructure, as well as measures which will be taken to restore damaged or disturbed access routes following construction.

4. A decommissioning and site restoration plan as detailed in Section 12.09, B herein.
 5. A landscaping plan showing the current vegetation, describing the area to be cleared, listing the specimens proposed to be added, and detailing regrading and restoration measures to be taken after construction according to New York State Agriculture and Markets and New York State Department of Environmental Conservation guidelines. The plan should also include details regarding how erosion and sediment control will be dealt with.
- C. Hearings. The Planning Board shall conduct at least one public hearing on the Draft EIS with notice given to the public in the accordance with 6 NYCRR Part 617.12(c)(2).

Section 12.08 - Criteria for Approval of a Small WECS

A. Safety Standards.

1. The total height of each Small WECS shall not be more than one hundred (100) feet.
 - a. The allowed height shall be reduced if necessary to comply with all applicable Federal Aviation Requirements, including Subpart B (commencing with Section 77.11 of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports).
2. The minimum distance from the ground to the rotor blade tips shall not be less than twenty (20) feet.
3. Small WECS shall not be climbable up to ten (10) feet above the ground. This can be achieved through anti-climbing devices or a fence around the tower with locking portals at least six (6) feet high.
4. All access doors on towers or to electrical equipment shall be locked or fenced.
5. There shall be clearly visible signs on all Small WECS, electrical equipment warning of electrical shock or high voltage and harm from revolving machinery. Signage shall also include a twenty four (24) hour emergency contact number.
6. Small WECS shall comply with all applicable FAA requirements for air traffic warning lights.
7. No artificial lighting shall be allowed on Small WECS except to the extent required by the FAA or other air safety authority. Minimal ground level security lighting is permitted.
8. Each Small WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the blade within the design limits of the rotor. Manual electrical and/or overspeed shutdown disconnect switches shall be provided and clearly labeled on the wind turbine structure. No Small WECS shall be permitted which lacks an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components.
9. The Planning Board may require a reasonable setback for ice throw based upon the report submitted pursuant to Section 12.05, A, 12, f, i herein.

B. Siting and Installation.

1. Road access to project site. Subject to the property owner's preference, entrances to access roads must be gated and kept locked. The applicant must only use designated traffic routes established in the application review process. Routes should be chosen to minimize traffic impacts taking into consideration wind energy facility related traffic during school bus times,

wear and tear on local roads, and impacts on local businesses. Existing roads should be used to the extent possible or if new roads are needed they should minimize the amount of land used and the adverse environmental impacts. The applicant is responsible for remediation of any damaged roads due to siting and installation of the wind energy facility.

2. Power lines. Power lines between turbines and any other buildings or structures should be completely underground. Power lines for connection to the public utility company and transmission poles, towers, and lines may be aboveground. This standard may be modified by the decision-maker if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.
3. Connection of transmission lines from the wind energy facility to local distribution lines.
 - a. No construction of any Small WECS shall be started until evidence is given of a signed interconnection agreement or letter of intent with an interconnecting utility company.
 - b. The wind energy facility shall meet the requirements for interconnection and operation as set forth in the electric utility's then current service regulations applicable to wind power generation facilities.
 - c. Transmission lines and points of connection to local distribution lines should be combined to the extent possible. The wind energy facility should be connected to existing substations if possible, or if new substations are needed, the number should be minimized.
4. Any construction on agricultural land shall be conducted according to the New York State Department of Agriculture and Markets "Guidelines for Agricultural Mitigation for Wind Power Projects" and shall not be located on active farmland and shall be located towards the edge of fields and tillage acreage to the fullest extent practical. Prime Agricultural Soils and Soils of Statewide Significance shall also be avoided.

C. Setbacks.

1. Each Small WECS sixty-five feet (65') or smaller in total height shall be set back at least one and a half (1.5) times the tower height from the following items listed below. Each Small WECS greater than sixty-five feet (65') but not greater than one hundred feet (100') in total height shall be set back at least two (2) times the tower height from the following items:
 - a. All existing residences, structures, and buildings on a non-participating landowner's property.
 - b. The nearest school, hospital, church, or public library.
 - c. All property lines, overhead utility or transmission lines, other towers, electrical substations, meteorological towers, and public roads.
2. In order to advise all subsequent owners of the burdened property, the consent, in the form required for an easement describing the benefited and burdened properties, must be recorded in the County Clerk's office. The easement shall be permanent and may not be revoked without the consent of the Town Board, which consent shall be granted upon either the completion of decommissioning of the benefitted Small WECS in accordance with this article, or the acquisition of the burdened parcel by the owner of the benefitted parcel. If written consent is not obtained, a variance from the Zoning Board of Appeals shall be required to waive setback requirements.

D. Nuisance.

1. Noise:

- a. The noise level generated by a Small WECS shall not exceed 45 A-weighted decibels (“dBA”) for more than six minutes out of any one-hour time period, or exceed 50 dBA for any time period, as measured at the site property line of a non-participating residence.
 - b. The noise level generated by a Small WECS must also not increase ambient sound levels by more than 3 dBA at any sensitive noise receptors, including residences, hospitals, libraries, schools, and places of worship, within two thousand and five hundred (2,500) feet of the site property line.
 - c. If the ambient noise level measured at the site property line exceeds the standard, the standard shall be equal to the ambient noise level plus 3 dBA.
 - d. Independent certification shall be required after construction demonstrating compliance with this requirement.
2. Interference with electromagnetic communications, radio signals, microwave and television signals. No wind energy facility shall be installed in any location where its proximity with microwave communications, fixed broadcast, retransmission or reception antenna for radio, wireless phone, or other personal communications systems would produce substantial electromagnetic interference with signal transmission or reception. Any interference with television signals shall be mitigated by the wind energy developer.

E. Environmental and Visual Effects.

1. Advertising. No advertising shall be allowed on any part of the wind energy facility including the fencing and support structures. No lettering, company insignia, brand names, logo, or graphics shall be allowed on the tower or blades. Reasonable identification of the turbine manufacturer, facility owner, and facility operator is permitted.
2. Colors and surfaces of Small WECS. Colors and surface treatment of all Small WECS shall minimize visual disruption by using white, beige, off-white, gray, or another non-reflective, unobtrusive color. Subject to the preceding sentence and all applicable FAA requirements other Small WECS components (excluding the tower and blades) shall make use of materials, textures, screening, and landscaping that blend the facility into the natural setting and existing environment to the extent practicable.
3. Landscaping. Subject to the land-owner’s preference, the landscaping of the wind energy facility should be appropriate to screen accessory structures from roads and adjacent residences. It should be designed to minimize the impacts of land clearing and loss of open space.
4. Ecosystems and animals. Wind energy facilities may not cause any violations of the Endangered Species Act or of New York State’s Endangered Species Regulations.
5. Visual setbacks. Small WECS should be set back from the tops of visually prominent ridgelines and designed and located to minimize adverse visual impacts to neighboring residential areas. Small WECS shall not be installed in any location that would substantially detract from or block the view of all or a portion of a recognized scenic vista as viewed from any public viewing areas such as public parks, roads, trails, or open space.
6. Shadow flicker. Small WECS shall be located in a manner that makes reasonable efforts to minimize shadow flicker to any occupied building, residences, or roadway on a non-participating landowner’s property. Wind energy developers shall be required to undertake reasonable mitigation measures for shadow flicker in accordance with the preferences of the land owner provided it allows the continued operation of the Small WECS. This mitigation obligation shall be incorporated into any special use permit approval.

F. Operation.

1. Maintenance. The owner of the Small WECS shall submit an annual report of operations and maintenance to the Code Enforcement Officer.
 - a. All Small WECS must be maintained in operational condition meeting all of the requirements of this article and other permit conditions at all times, subject to reasonable maintenance and repair outages. If the Small WECS becomes inoperative, damaged, unsafe, or violates a permit condition or standard, the owner/operator shall remedy the situation within 90 calendar days after written notice from the Code Enforcement Officer. The Code Enforcement Officer may extend the period by an additional 90 calendar days if good cause can be shown by the owner.
 - b. If the Small WECS is not repaired or brought into permit compliance within the timeframe stated above, the Planning Board may, after a public hearing, order remedial action or revoke the special use permit and order removal of the Small WECS within 90 calendar days.
2. Inspections:
 - a. The owner of each Wind Energy Facility shall submit a bi-annual inspection report to the Town Board or its designee on the structural and operational integrity of the facility. Such report shall be prepared by or under the direction of a qualified windmill inspector. If such report recommends that repairs or maintenance measures be undertaken, the owner shall provide with such report a written schedule for undertaking such repairs or maintenance.
 - b. Wind Energy Facilities shall not begin operating until all approvals required under this law are obtained and all required certifications are provided.
 - c. Following the issuance of any approval required under this Law, the Code Enforcement shall have the right to enter into the Site upon which a Wind Energy Facility has been placed, at reasonable times in order to inspect such facility and its compliance with this Law.
 - d. After undertaking such inspection, the Code Enforcement Officer shall provide notice of any non-compliance with the terms of this Law or the conditions of approval of any permit issued here under, and shall provide the owner or applicant with a reasonable time frame to cure such violation, such timeframe to be determined based upon the seriousness of the violation, its impact upon public safety, and the impact of the violation upon residents of the Town.

Section 12.09 - Abatement, Decommissioning, Site Restoration Plan & Bond for Small WECS

A. Abatement and Decommissioning.

1. If the wind energy facility is not operated for a continuous period of twelve (12) months, the Code Enforcement Officer will contact the applicant by registered mail and provide forty-five (45) calendar days for a response. The applicant is required to respond and set forth reasons for the stoppage and a timetable for action. If the Code Enforcement Officer has made all reasonable efforts to notify the applicant but the applicant does not satisfactorily respond, the Code Enforcement Officer can request the Town Board to contract for removal and restoration using the money in the decommissioning bond, after salvage value, and charge the applicant any difference in cost.

B. Decommissioning and Site Restoration Plan.

1. The plan shall include:
 - a. The anticipated life of the Small WECS;

- b. Triggering events for decommissioning and removal;
- c. The estimated decommissioning costs in current dollars;
- d. How the estimate was determined;
- e. Provision for a re-estimate of such decommissioning costs every five (5) years by a professional engineer licensed in New York State; and
- f. The manner in which the Small WECS will be decommissioned and the site restored including removal of all structures, turbines, cabling, electrical components, debris, and foundations to a depth of thirty six (36) inches, restoration of the soil and vegetation, and restoration of roads and driveways, less any fencing or residual minor improvements requested by the landowner.

C. Bond.

1. A decommissioning bond payable to the Town of Throop in an amount to be determined by the Town Board for removal of nonfunctional Small WECS and restoration of the wind energy facility site shall be maintained by the applicant.
2. The bond, letter of credit, or other equivalent form of security must be confirmed to be sufficient to cover decommissioning and site restoration costs every five (5) years.

Section 12.10 - Liability Insurance

- A. Prior to issuance of a building permit for a Small WECS, the applicant shall provide the Code Enforcement Officer with proof of a general liability insurance policy at a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury that might result from failure of any part of the WECS.

Section 12.11 - Transfer and Replacement

- A. If ownership of a Small WECS changes, the new owner must present full contact information and proof to the Code Enforcement Officer that all required bonds and insurance policies remain in full force thirty (30) calendar days prior to the transfer of ownership.
- B. Any replacement of or modification or alteration to a Small WECS, excluding regular maintenance and repair, requires an amendment to the special use permit, which amendment shall not be unreasonably withheld.
- C. Replacement of a Small WECS may occur without Planning Board approval when there will be:
1. No increase in the total height of the Small WECS,
 2. No change in the location of the Small WECS,
 3. No additional lighting on the Small WECS, except to the extent required by the FAA, and
 4. No increase in noise produced by the Small WECS.

Section 12.12 - Requirements for Wind Measurement Towers

- A. The Town Board acknowledges that prior to construction of a Small WECS, a wind site assessment is conducted to determine the wind speeds and the feasibility of using particular sites. Installation of wind measurement towers, also known as anemometer towers, shall be permitted as a special use in the Agricultural (A) Zoning District.
- B. Anyone seeking to build a temporary or permanent wind measurement tower must submit an application for a special use permit to the Planning Board. The special use permit for a temporary wind measurement tower is valid for up to two (2) years and may be renewed.

1. An application for a wind measurement tower shall include:
 - a. Name, address, and telephone number of the applicant.
 - b. Name, address, and telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner confirming that the property owner is familiar with the proposed applications and authorizing the application.
 - c. Address of each proposed tower site, including tax map section, block, and lot number.
 - d. Site plan.
 - e. Decommissioning plan, based on the criteria in this article for Small WECS, including a security bond or cash for removal.
- C. Wind measurement towers must be set back from property lines at least one and a half (1.5) times the total height of the tower and shall not be located on active farmland and shall be located towards the edge of fields and tillage acreage to the fullest extent practical. Prime Agricultural Soils and Soils of Statewide Significance shall also be avoided.
- D. Construction Related Damages. The owner of every Wind Energy Facility constructed pursuant to this law shall, to the extent practicable, repair or replace all real or personal property, public or private, damaged during the construction of such facility.
- E. Removal.
 1. Temporary wind measurement towers shall be removed no later than date applicable special use permit expires.
 2. Subsequent to removal of temporary or permanent wind measurement towers, installation sites shall be restored to a condition substantially similar to the site's condition upon installation of wind measurement tower.

Section 12.13 - Enforcement and Violations

- A. The Town Board shall appoint such Town staff, including the Code Enforcement Officer, or outside consultants as it sees fit to enforce this article.
- B. During construction, the Code Enforcement Officer may issue a stop work order at any time for violations of this ordinance, the special use permit, building permit, or site plan approval.
- C. Any person owning, controlling, or managing any building, structure, or land who undertakes a wind energy facility in violation of this article or in noncompliance with the terms and conditions of any permit issued pursuant to this article, or any order of the Code Enforcement Officer, and any person who assists in so doing, shall be guilty of a violation and subject to the fines, penalties, and procedures in Article XV of this Law.
- D. In case of any violation or threatened violation of any of the provisions of this article, including any permits issued pursuant to this article, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation to prevent the illegal act in accordance with the provisions in Article XV of this Law.

Article XIII. Wireless Telecommunication Facilities

Section 13.01 – Purpose and Intent

A. The Telecommunications Act of 1996 affirmed the Town of Throop's authority concerning the placement, construction, and modification of wireless telecommunications facilities. The Town of Throop finds that the improper siting, placement or construction of wireless telecommunications facilities may pose significant concerns to the health, safety, public welfare, character, and environment of the Town and its inhabitants. The Town also recognizes that facilitating the development of wireless service technology can be an economic development asset to the Town and of significant benefit to the Town and its residents. In order to ensure that the placement, construction, or modification of wireless telecommunications facilities is consistent with the Town's land use policies, the Town is adopting a single, comprehensive, wireless telecommunications facilities application and permit process. The intent of this Article is to minimize impact of wireless telecommunications facilities, establish a fair and efficient process for review and approval of applications, assure an integrated comprehensive review of environmental impacts of such facilities, and protect the health, safety, and welfare of the Town of Throop.

Section 13.02 – Definitions

A. As used in this Article, the following terms shall have the meanings indicated:

ACCESSORY FACILITY OR STRUCTURE - An accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities, and located on the same property or lot as the wireless telecommunications facilities, including, but not limited to, utility or transmission equipment storage sheds or cabinets.

APPLICANT - Any wireless service provider submitting an application for a special use permit for wireless telecommunications facilities.

APPLICATION - All necessary and appropriate documentation that an applicant submits in order to receive a special use permit for wireless telecommunications facilities.

ANTENNA - A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

CO-LOCATION - The use of an existing tower or structure to support antennas for the provision of wireless services.

COMMERCIAL IMPRACTICABILITY OR COMMERCIALLY IMPRACTICABLE- The inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be commercially impracticable and shall not render an act or the terms of an agreement commercially impracticable.

COMPLETED APPLICATION - An application that contains all information and/or data necessary to enable an informed decision to be made with respect to an application.

FAA - The Federal Aviation Administration, or its duly designated and authorized successor agency.

FCC - The Federal Communications Commission, or its duly designated and authorized successor agency.

HEIGHT - When referring to a tower or structure, the distance measured from the preexisting grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightning protection device.

MODIFICATION OR MODIFY - The addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or changeout of equipment for better or more modern equipment. A modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.

NIER - Nonionizing electromagnetic radiation.

PERSON - Any individual, corporation, estate, trust, partnership, joint stock company, association of two or more persons having a joint common interest, or any other entity.

PERSONAL WIRELESS FACILITY - See definition for "wireless telecommunications facilities."

PERSONAL WIRELESS SERVICES OR PWS OR PERSONAL TELECOMMUNICATIONS SERVICE OR PCS - Shall have the same meaning as defined and used in the 1996 Telecommunications Act.

REPAIRS AND MAINTENANCE - The replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernable components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.

SPECIAL USE PERMIT - The official document or permit by which an applicant is allowed to file for a building permit to construct and use wireless telecommunications facilities as granted or issued by the Town.

STEALTH OR STEALTH TECHNOLOGY - To minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

STATE - The State of New York.

SUBSTANTIALLY CHANGE THE PHYSICAL DIMENSIONS -

1. Any change to a tower or base station that meets any of the following criteria:
 - a. For towers outside of public rights-of-way, it increases the height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for those towers in the rights-of-way and for all base stations, it increases the height of the tower or base station by more than 10% or 10 feet, whichever is greater;
 - b. For towers outside of public rights-of-way, it protrudes from the edge of the tower more than 20 feet or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for those towers in the rights-of-way and for all base stations, it protrudes from the edge of the structure more than six feet;
 - c. It involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;
 - d. It entails any excavation or deployment outside the current site of the tower or base station;
 - e. It would defeat the existing concealment elements of the tower or base station; or

- f. It does not comply with conditions associated with the prior approval of construction or modification of the tower or base station unless the noncompliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the thresholds identified above.
2. For purposes of the above, changes in height resulting from a modification should be measured from the original support structure in cases where the deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station inclusive of originally approved appurtenances and any modifications that were previously approved.

TELECOMMUNICATIONS - The transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

TELECOMMUNICATIONS SITE - See definition for “wireless telecommunications facilities.”

TELECOMMUNICATIONS STRUCTURE - A structure used in the provision of services described in the definition of "wireless telecommunications facilities."

TEMPORARY - Temporary in relation to all aspects and components of this Article, something intended to, or that does, exist for fewer than 90 calendar days.

TOWER - Any structure designed primarily to support an antenna for receiving and/or transmitting a wireless signal.

WIRELESS TELECOMMUNICATIONS FACILITIES - Means and includes a telecommunications site and personal wireless facility. It means a structure, facility or location designed, or intended to be used as, or used to support antennas or other transmitting or receiving devices. This includes, without limit, towers of all types and kinds and structures, including, but not limited to, buildings, church steeples, silos, water towers, signs, or other structures that can be used as a support structure for antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters, and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, personal communications services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunications service not licensed by the FCC.

Section 13.03 – Applicability and Permits Required

- A. No person shall be permitted to site, place, build, construct, modify, or prepare any site for the placement or use of wireless telecommunications facilities as of the effective date of this Article without having first obtained a special use permit for wireless telecommunications facilities. Notwithstanding anything to the contrary in this section, no special use permit shall be required for those noncommercial exceptions noted in Section 13.04.
- B. As of the effective date of this Article, no person shall modify, as defined in Section 13.02 above, any existing wireless telecommunication facility without first obtaining approval from the Code Enforcement Officer that the proposed modifications comply with the requirements of this Article. All proposed modifications shall be certified with the signature and seal of a professional engineer licensed in the State of New York.
- C. All legally permitted wireless telecommunications facilities, constructed as permitted, existing on, or before the effective date of this Article shall be allowed to continue as they presently exist; provided, however, that any visible modification of an existing wireless telecommunications facility will require the complete facility and any new installation to comply with this Article.
- D. Any repair and maintenance of a wireless facility does not require the application for a special use permit.

Section 13.04 - Exclusions

- A. The following shall be exempt from this Article:
1. The Town's fire, police, department of transportation, or other public service facilities owned and operated by the local government.
 2. Any facilities expressly exempt from the Town's siting, building, and permitting authority.
 3. Over-the-air reception devices including the reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception.
 4. Facilities exclusively for private, noncommercial radio and television reception and private citizen's bands, licensed amateur radio and other similar noncommercial telecommunications.
 5. Facilities exclusively for providing unlicensed spread spectrum technologies [such as IEEE 802.11a, b, g (Wi-Fi) and Bluetooth] where the facility does not require a new tower.

Section 13.05 - Special Use Permit Application and Other Requirements

- A. In addition to the general requirements for special use permits provided in Article VII of this Law, all applicants for a special use permit for wireless telecommunications facilities or any modification of such facility shall comply with the requirements set forth in this Article. The Planning Board is the officially designated agency or body of the Town to whom applications for a special use permit for wireless telecommunications facilities must be made and that is authorized to review, analyze, evaluate, and make decisions with respect to granting or not granting or revoking special use permits for wireless telecommunications facilities. The Town may, at its discretion, delegate or designate other official agencies or officials of the Town to accept, review, analyze, evaluate, and make recommendations to the Planning Board with respect to granting or not granting or revoking special use permits for wireless telecommunications facilities.
- B. The Planning Board may reject applications not meeting the requirements stated herein or which are otherwise incomplete.
- C. No wireless telecommunications facilities shall be installed, constructed or modified until the application is reviewed and approved by the Planning Board and the special use permit has been issued.
- D. Any and all representations made by the applicant to the Planning Board on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the Planning Board.
- E. An application for a special use permit for wireless telecommunications facilities shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information.
- F. The applicant must provide documentation to verify it has the right to proceed as proposed on the site. This would require an executed copy of the lease with the landowner or landlord or a signed letter acknowledging authorization. If the applicant owns the site, a copy of the ownership record is required.
- G. The applicant shall include a statement in writing:
1. That the applicant's proposed wireless telecommunications facilities shall be maintained in a safe manner, and in compliance with all conditions of the special use permit, without exception, unless specifically granted relief by the Planning Board or Zoning Board of Appeals, as applicable, in writing, as well as all applicable and permissible local codes, laws,

- and regulations, including any and all applicable Town, state and federal laws, rules, and regulations; and
2. That the construction of the wireless telecommunications facilities is legally permissible, including but not limited to the fact that the applicant is authorized to do business in the state.
- H. Where a certification is called for in this Article, such certification shall bear the signature and seal of a professional engineer licensed in the state.
- I. In addition to all other required information as stated in this Article, all applications for the construction or installation of new wireless telecommunications facilities or modification of an existing facility shall contain the information hereinafter set forth:
1. A descriptive statement of the objective(s) for the new facility or modification, including and expanding on a need such as coverage and/or capacity requirements;
 2. Documentation that demonstrates and proves the need for the wireless telecommunications facility to provide service primarily and essentially within the Town. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites that demonstrate a significant gap in coverage and/or, if a capacity need, include an analysis of current and projected usage;
 3. The name, address and phone number of the person preparing the report;
 4. The name, address, and phone number of the property owner and applicant, and to include the legal name of the applicant. If the site is a tower and the owner is different than the applicant, provide name and address of the tower owner;
 5. The postal address and Tax Map parcel number of the property;
 6. The zoning district or designation in which the property is situated;
 7. Size of the property stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines;
 8. The location of the nearest residential structure;
 9. The location, size and height of all existing and proposed structures on the property which is the subject of the application;
 10. The type, locations and dimensions of all proposed and existing landscaping, and fencing;
 11. The azimuth, size and center-line height location of all proposed and existing antennas on the supporting structure;
 12. The number, type and model of the antenna(s) proposed, with a copy of the specification sheet;
 13. The make, model, type and manufacturer of the tower and design plan stating the tower's capacity to accommodate multiple users;
 14. A site plan describing the proposed tower and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above preexisting grade, materials, color and lighting;
 15. The frequency, modulation and class of service of radio or other transmitting equipment;
 16. The actual intended transmission power stated as the maximum effective radiated power (ERP) in watts;
 17. Signed documentation such as the "Checklist to Determine Whether a Facility is Categorically Excluded" to verify that the wireless telecommunications facility with the proposed installation will be in full compliance with the current FCC RF emissions guidelines

- (NIER). If not categorically excluded, a complete RF emissions study is required to provide verification;
18. A signed statement that the proposed installation will not cause physical or RF interference with other telecommunications devices;
 19. A copy of the FCC license applicable for the intended use of the wireless telecommunications facilities;
 20. A copy of the geotechnical subsurface soils investigation, evaluation report and foundation recommendation for a proposed or existing tower site and, if an existing tower or water tank site, a copy of the installed foundation design.
- J. The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the proposed new tower or existing structure intended to support wireless facilities is in compliance with Federal Aviation Administration Regulation Part 77 and if it requires lighting. This requirement shall also be for any existing structure or building where the application increases the height of the structure or building. If this analysis determines that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided with the application.
- K. Application for new tower.
1. Any telecommunication facility located on agricultural land shall not be located on active farmland and shall be located towards the edge of fields and tillage acreage to the fullest extent practical. Prime Agricultural Soils and Soils of Statewide Significance shall also be avoided.
 2. In the case of a new tower, the applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing tower(s) or the use of alternative buildings or other structures within the Town. Copies of written requests and responses for shared use shall be provided to the Planning Board in the application, along with any letters of rejection stating the reason for rejection.
 3. In order to better inform the public, in the case of a new telecommunications tower, the applicant shall, prior to the public hearing on the application, hold a "balloon test." The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three-foot in diameter brightly colored balloon at the maximum height of the proposed new tower. The dates (including a second date, in case of poor visibility on the initial date), times and location of this balloon test shall be advertised by the applicant seven calendar days and 14 calendar days in advance of the first test date in a newspaper with a general circulation in the Town. The applicant shall inform the Planning Board, in writing, of the dates and times of the test, at least 14 calendar days in advance. The balloon shall be flown for at least four consecutive hours sometime between 7:00 a.m. and 4:00 p.m. on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a weekday. A report with pictures from various locations of the balloon shall be provided with the application.
 4. The applicant shall examine the feasibility of designing the proposed tower to accommodate future demand for at least four additional commercial applications, for example, future co-locations. The tower shall be structurally designed to accommodate at least four additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:
 - a. The foreseeable number of FCC licenses available for the area;

- b. The kind of wireless telecommunications facilities site and structure proposed;
 - c. The number of existing and potential licenses without wireless telecommunications facilities spaces/sites;
 - d. Available space on existing and approved towers.
5. Shared use.
- a. The owner of a proposed new tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed tower by other wireless service providers in the future, and shall:
 - i. Respond within 60 calendar days to a request for information from a potential shared-use applicant;
 - ii. Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers;
 - iii. Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
 - b. Failure to abide by the conditions outlined above may be grounds for revocation of the special use permit.
- L. The applicant shall provide certification with documentation (structural analysis), including calculations that the telecommunications facility tower and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, Town, state and federal structural requirements for loads, including wind and ice loads.
- M. If proposal is for a co-location or modification on an existing tower, the applicant is to provide signed documentation of the tower condition, such as an ANSI report as per Annex E, Tower Maintenance and Inspection Procedures, ANSI/TIA/EIA-222F or most recent version. The inspection report must be performed every three years for a guyed tower and five years for monopoles and self-supporting towers.
- N. All proposed wireless telecommunications facilities shall contain a demonstration that the facility be sited so as to be the least visually intrusive reasonably possible, given the facts and circumstances involved, and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences in the area of the wireless telecommunications facility.
- O. If a new tower, proposal for a new antenna attachment to an existing structure, or modification adding to a visual impact, the applicant shall furnish a visual impact assessment, which shall include:
- 1. If a new tower or increasing the height of an existing structure is proposed, a computer-generated "Zone of Visibility Map" at a minimum of one-mile radius from the proposed structure, with and without foliage, shall be provided to illustrate locations from which the proposed installation may be seen.
 - 2. Pictorial representations of "before" and "after" (photo simulations) views from key viewpoints both inside and outside of the Town as may be appropriate, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance

will be provided, concerning the appropriate key sites, at the pre-application meeting; provide a map showing the locations of where the pictures were taken and distance from the proposed structure.

3. A written description of the visual impact of the proposed facility, including, as applicable, the tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.
- P. The applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed wireless telecommunications facility.
- Q. The wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings. This shall include the utilization of stealth or concealment technology as may be required by the Planning Board.
- R. All utilities at a wireless telecommunications facilities site shall be installed underground and in compliance with all laws, rules and regulations of the Town, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.
- S. At a telecommunications site, an access road, turnaround space, and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.
- T. All wireless telecommunications facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Town, state, or United States, including but not limited to the most recent editions of the ANSI Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.
- U. A holder of a special use permit granted under this Article shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the Town or other governmental entity or agency having jurisdiction over the applicant.
- V. There shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues that will help to expedite the review and permitting process. A pre-application meeting shall also include a site visit if there has not been a prior site visit for the requested site. Costs of the Town's consultants to prepare for and attend the pre-application meeting will be borne by the applicant.
- W. An applicant shall submit to the Planning Board the number of completed applications determined to be needed at the pre-application meeting. Written notification of the application shall be provided to the legislative body of all adjacent municipalities as applicable and/or requested.
- X. The holder of a special use permit shall notify the Planning Board of any intended modification of a wireless telecommunications facility and shall apply to the Planning Board to modify, relocate, or rebuild a wireless telecommunications facility.
- Y. With respect to this application process, the Planning Board will normally seek to have lead agency status pursuant to SEQRA. The Planning Board shall conduct an environmental review of the

proposed project pursuant to SEQRA in combination with its review of the application pursuant to this section.

Section 13.06 - Location

- A. Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities in accordance with the following priorities, one (1) being the highest priority and four (4) being the lowest priority:
 - 1. On existing towers or other structures on Town-owned properties.
 - 2. On existing towers or other structures on other property in the Town.
 - 3. A new tower on Town-owned properties.
 - 4. A new tower on properties in areas zoned for agricultural use.
- B. If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.
- C. An applicant may not bypass sites of higher priority by stating the site proposed is the only site leased or selected. An application shall address co-location as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the Planning Board why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship.
- D. Notwithstanding the above, the Planning Board may approve any site located within an area in the above list of priorities, provided that the Planning Board finds that the proposed site is in the best interest of the health, safety and welfare of the Town and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood.
- E. The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.
- F. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Planning Board may disapprove an application for any of the following reasons:
 - 1. Conflict with safety and safety-related codes and requirements;
 - 2. Conflict with the historic nature or character of a neighborhood or historical district;
 - 3. The use or construction of wireless telecommunications facilities which is contrary to an already stated purpose of a specific zoning or land use designation;
 - 4. The placement and location of wireless telecommunications facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the Town, or employees of the service provider or other service providers; or
 - 5. Conflicts with the provisions of this Article.

Section 13.07 - Shared Use of Wireless Telecommunications Facilities and Other Structures

- A. The Town shall prefer locating wireless telecommunications facilities on existing towers or other structures, without increasing the height, over the construction of a new tower. The applicant shall submit a comprehensive report inventorying existing towers and other suitable structures within four miles of the location of any proposed new tower, unless the applicant can show that some other

distance is more reasonable and demonstrate conclusively why an existing tower or other suitable structure cannot be used.

- B. An applicant intending to locate on an existing tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the applicant.
- C. To the extent practicable, the primary function of such shared use should be to provide service within the Town.

Section 13.08 - Height

- A. The applicant shall submit documentation justifying the total height of any tower, facility, and/or antenna requested and the basis therefor. Documentation in the form of propagation studies must include all backup data used to perform at requested height and a minimum of ten feet lower height to allow verification of this height need. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the Town, to the extent practicable, unless good cause is shown.
- B. No tower constructed after the effective date of this Article, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with municipal, Town, state, and/or any federal statute, law, local law, Town law, code, rule, or regulation.

Section 13.09 - Visibility

- A. Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law.
- B. Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Article.
- C. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under state and federal regulations.

Section 13.10 - Security

- A. All wireless telecommunications facilities and antennas shall be located, fenced, or otherwise secured in a manner that prevents unauthorized access. Specifically:
 - 1. All antennas, towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
 - 2. Transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

Section 13.11 - Signage

- A. Wireless telecommunications facilities shall contain a sign no larger than four square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as an emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration sign, as applicable, is also to be present. The signs shall not be lighted, unless applicable law, rule, or regulation requires lighting. No other signage, including advertising, shall be permitted.

Section 13.12 - Lot Size and Setbacks

- A. All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: a distance equal to the height of the proposed tower or wireless telecommunications facility structure plus 10% of the height of the tower or structure, or the existing setback requirement of the underlying zoning district, whichever is greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

Section 13.13 - Retention of Expert Assistance and Reimbursement by Applicant

- A. The Town may retain such consultants as it deems to be properly experienced, qualified, and necessary to assist the Planning Board in reviewing and evaluating any application for a wireless telecommunications facility received pursuant to this Article. Costs incurred by the Town for consultation fees or other extraordinary expenses in connection with the review or inspection of required improvements shall be charged to the applicant.
- B. Applications for such facilities shall contain a deposit intended to reimburse the Town for the reasonable anticipated costs of review and evaluation by such consultants, in the amounts described below. Such deposit is intended by the Town to bear a reasonable relation to the average cost needed to undertake the review deemed necessary pursuant to this Article in order to protect the health and safety of its citizens and the environment. That amount has been determined based upon prior applications within the Town, and based upon communications with consultants and other similarly situated municipalities. The total cost of the review may vary based upon the scope and complexity of the proposed project, the completeness of the application or certification or any other information as may be needed to complete the necessary review by the consultants.
- C. The Town shall maintain a separate escrow account for all deposits received pursuant to this section. The Planning Board's consultants shall invoice the Town for its services in reviewing the application, and such invoices shall be paid out of the funds deposited into such accounts. In the event that the consultant determines that the review has or shall exceed the amount initially deposited into the escrow, the consultant shall provide a justification to the Planning Board and Town Board with the reasons such review shall exceed the amount of such escrow, including any unusual factors requiring further review. The Town Board, in consultation with the Planning Board, shall then determine in its reasonable discretion whether additional review is required and, if so, the amount of additional deposit that such additional review will require, and it shall notify the applicant that an additional deposit to the escrow fund is required, the reasons why the Town Board has determined that such additional review is necessary, and the amount of additional funds that must be deposited by the applicant. In such an event, further funds must be deposited by the applicant before any further action is taken on the application. Such justification by the consultant and determination by the Town Board, in consultation with the Planning Board, shall be required each time the escrow account is nearing depletion and it is determined that additional review is required by the consultant.
- D. In the event that funds remain in the escrow account at the conclusion of the review and invoicing by the Planning Board's consultant, any remaining balance shall be promptly refunded to the applicant.
- E. The Planning Board shall make every effort to communicate with its consultants to ensure that the breadth and scope of the review by its consultants is reasonable and necessary based upon the facts and circumstances of each particular application.
- F. The Town Board may reduce the amount of the initial deposit if it determines, in its reasonable discretion following administration of an adequate number of applications to make an informed determination, that the average cost needed to undertake the necessary review is less than the amount of the deposit required herein.

Section 13.14 - Public Hearing and Notification Requirements

- A. Prior to the approval of any application for a special use permit for new wireless telecommunications facilities, a public hearing shall be held by the Planning Board, notice of which shall be published in the official newspaper of the Town no less than five (5) calendar days prior to the scheduled date of the public hearing. In order that the Planning Board may notify nearby landowners, the application shall contain the names and addresses of all landowners whose property is located within 1,500 feet of any property line of the lot or parcel on which the new wireless telecommunications facilities are proposed to be located.
- B. No public hearing shall be held for an application to co-locate or modify an existing tower or other structure, provided that the application will not substantially change the physical dimensions of such tower or other structure as defined in this Article.
- C. The Planning Board shall schedule and conduct the public hearing referred to in Subsection A of this section within sixty-two (62) calendar days once it finds the application is complete; the Planning Board, at any stage prior to issuing a special use permit, may require such additional information as it deems necessary.

Section 13.15 - Action on Application for Special Use Permit

- A. Action on application for modification of an existing wireless tower or base station:
 - 1. Within thirty (30) calendar days following receipt of an application from the applicant, the Planning Board shall provide written notice regarding the completeness of such application.
 - 2. The Planning Board may in its reasonable discretion require the applicant to demonstrate that the application for modification including co-location does not substantially change the physical dimensions of the existing wireless tower or base station, that it meets any required concealment elements of the existing tower or base stations, and/or that it complies with conditions associated with any previous approval of construction or modification of the existing tower or base station, unless the noncompliance results from: an increase in height; an increase in width; the addition of cabinets; or new excavation that does not exceed the thresholds identified in this Article.
 - 3. The Planning Board may in its reasonable discretion require the applicant to demonstrate that the application for co-location or modification conforms to generally applicable building, structural, electrical, and safety codes and to other laws codifying objective standards that are reasonably related to health and safety.
 - 4. Referral to the County Planning Board must be made at least ten (10) business days before the required public hearing by the Planning Board under provisions of Section 239-1, m & n of the New York State General Municipal Law.
 - 5. The Planning Board shall make a decision on the application within sixty-two (62) calendar days after such hearing and file said decision within five (5) business days after the day such decision was rendered with the Town Clerk, and mail such decision to the applicant with a copy to the Code Enforcement Officer. The time within which a decision must be rendered may be extended by mutual consent of the applicant and the Planning Board.
 - 6. In taking final action, the Planning Board shall approve any application that does not substantially change the physical dimensions of the existing wireless tower or base station as defined herein, provided that the application conforms to generally applicable building, structural, electrical, and safety codes and to other laws codifying objective standards that are reasonably related to health and safety.
 - 7. In the event of denial of the application, the Planning Board shall inform the applicant of the basis for denial in writing.

8. Following approval of an application for modification of an existing wireless tower or base station including co-location, no further permits or approvals from the Planning Board shall be required except for applicable building permits and certificates of compliance.

B. Action on all other applications pursuant to this Article.

1. The Planning Board will undertake a review of an application pursuant to this Article in a timely fashion, consistent with its responsibilities, and shall act within a reasonable period of time given the relative complexity of the application and the circumstances, with due regard for the public's interest and need to be involved, and the applicant's desire for a timely resolution.
2. The Planning Board may refer any application or part thereof to any advisory or other committee for a nonbinding recommendation.
3. After the public hearing and after formally considering the application, the Planning Board may approve, approve with conditions, or deny a special use permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the granting of the permit shall always be upon the applicant.
4. If the Planning Board approves the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such approval, in writing, within five (5) business days of the Planning Board's action, and the special use permit shall be issued within thirty (30) calendar days after such approval. Except for necessary building permits and subsequent certificates of compliance, once a special use permit has been granted hereunder, no additional permits or approvals from the Planning Board, such as site plan or zoning approvals, shall be required by the Planning Board for the wireless telecommunications facilities covered by the special use permit.
5. If the Planning Board denies the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such denial in writing within five (5) business days of the Planning Board's action.

Section 13.16 - Extent and Parameters of Special Use Permit

- A. The extent and parameters of a special use permit for wireless telecommunications facilities shall be as follows:
1. Such special use permit shall not be assigned, transferred, or conveyed without the express prior written notification to the Planning Board.
 2. Such special use permit may, following a hearing upon due prior notice to the applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the special use permit, or for a material violation of this Article after prior written notice to the holder of the special use permit.

Section 13.17 - Application Fee

- A. Required Fee. Together with submission of any application for a special use permit, all applicants shall pay a nonrefundable application fee. Required fees for the new construction or modification of a wireless telecommunication facility are established by the Town Board in the Town fee schedule.
- B. Such application fee is intended as a regulatory measure to recoup the costs associated with administration, including issuance, inspection, and enforcement of such special use permit by the Town.

Section 13.18 – Decommissioning Plan

- A. Nonfunctional Wireless Telecommunication Facilities shall be removed, as set forth in Section 13.24, at the Owner and/or Operators expense, which may come from any security made with the Town.
- B. A decommissioning plan signed by the owner and/or operator of the Wireless Telecommunications Facility shall be submitted by the applicant, addressing the following:
 - 1. The anticipated life of the Wireless Telecommunications Facility.
 - 2. The estimated decommissioning costs in current dollars, determined by a professional engineer licensed in New York State. The engineer selected shall be mutually agreed upon by both the town and the Wireless Telecommunications Facility operator, and the cost of the engineer’s services shall be billed to the Wireless Telecommunications Facility operator.
 - 3. How the estimate was determined.
 - 4. Provision for a re-estimate of such decommissioning costs every five (5) years by a professional engineer licensed in New York State. The engineer selected shall be mutually agreed upon by both the town and the Wireless Telecommunications Facility operator, and the cost of the engineer’s services shall be billed to the Wireless Telecommunications Facility operator.
 - 5. The manner in which the Wireless Telecommunications Facility will be decommissioned, and the site restored, including but not limited to:
 - a. The removal of aboveground and below-ground equipment, structures, and foundations.
 - b. The restoration of the surface grade and soil after removal of equipment to its original state before installation including topsoil quality.
 - c. The re-vegetation of restored soil areas with native seed mixes, excluding any invasive species.
 - d. A timeframe for the completion of site restoration work.
- C. Bond:
 - 1. A decommissioning bond payable to the Town of Throop in an amount to be determined by the engineer, as set forth in Subsection B2 above, for removal of nonfunctional Wireless Telecommunication Facilities and restoration of the site shall be maintained by the applicant. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original special use permit.
 - 2. The bond, letter of credit, or other equivalent form of security must be confirmed to be sufficient to cover decommissioning and site restoration costs every five (5) years.
 - 3. If ownership of a Wireless Telecommunication Facility changes, the new owner must present full contact information and proof to the Code Enforcement Officer that all required bonds and insurance policies remain in full force thirty (30) calendar days prior to the transfer of ownership.

Section 13.19 - Reservation of Authority to Inspect Wireless Telecommunications Facilities

- A. In order to verify that the holder of a special use permit for wireless telecommunications facilities and any and all lessees, renters, and/or licensees of wireless telecommunications facilities place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, and regulations and other applicable requirements, the

Town may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site.

Section 13.20 - Liability Insurance

- A. A holder of a special use permit for wireless telecommunications facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the special use permit in amounts as set forth below:
 - 1. Commercial general liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate.
 - 2. Automobile coverage: \$1,000,000 per occurrence/\$2,000,000 aggregate.
 - 3. Workers' compensation and disability: statutory amounts.
- B. For a wireless telecommunications facility on Town property, the commercial general liability insurance policy shall specifically include the Town and its officers, boards, employees, committee members, attorneys, agents, and consultants as additional insureds.
- C. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least A.
- D. The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town with at least 30 calendar days' prior written notice in advance of the cancellation of the insurance.
- E. Renewal or replacement policies or certificates shall be delivered to the Town at least 15 calendar days before the expiration of the insurance that such policies are to renew or replace.
- F. Before construction of a permitted wireless telecommunications facilities is initiated, but in no case later than 15 calendar days after the grant of the special use permit, the holder of the special use permit shall deliver to the Town a copy of each of the policies or certificates representing the insurance in the required amounts.

Section 13.21 - Indemnification

- A. Any application for wireless telecommunications facilities that is proposed for Town property, pursuant to this Article, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the Law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the Town, and its officers, boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town, or its servants or agents. With respect to the penalties, damages, or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Town.
- B. Notwithstanding the requirements noted in Subsection A of this section, an indemnification provision will not be required in those instances where the Town itself applies for and secures a special use permit for wireless telecommunications facilities.

Section 13.22 - Fines

- A. In the event of a violation of this Article or any special use permit issued pursuant to this Article, the Town may impose and collect, and the holder of the special use permit for wireless telecommunications facilities shall pay to the Town, fines, or penalties as set forth below.
- B. Violators of this Article or the holder of a special use permit's failure to comply with provisions of this Article shall constitute a violation and shall subject the applicant to be liable to a fine or penalty of twice the application fee for a new tower application or \$10,000; or if co-locating on an existing tower, twice the application fee for co-locating on an existing tower or \$5,000. Each one week's continued violation shall constitute a separate additional violation.

Section 13.23 - Default and/or Revocation

- A. If a wireless telecommunications facility is repaired, rebuilt, placed, moved, relocated, modified, or maintained in a way that is inconsistent or not in compliance with the provisions of this Article or of the special use permit, then the Town shall notify the holder of the special use permit in writing of such violation. A permit holder in violation may be considered in default and subject to fines as in Section 13.22, and if a violation is not corrected to the satisfaction of the Town in a reasonable period of time the special use permit is subject to revocation.

Section 13.24 - Removal

- A. Under the following circumstances, the Town Board may determine that the health, safety, and welfare interests of the Town warrant and require the removal of wireless telecommunications facilities:
 - 1. Wireless telecommunications facilities with a permit have been abandoned (i.e., not used as wireless telecommunications facilities) for a period exceeding 90 consecutive calendar days or a total of 180 calendar days in any period of 365 calendar days, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 calendar days;
 - 2. Permitted wireless telecommunications facilities fall into such a state of disrepair that they create a health or safety hazard;
 - 3. Wireless telecommunications facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required special use permit, or any other necessary authorization and the special use permit may be revoked.
- B. If the Town Board makes such a determination as noted in Subsection A of this section, then the Town Board shall notify the holder of the special use permit for the wireless telecommunications facilities within 48 hours that said wireless telecommunications facilities are to be removed; the Town Board may approve an interim temporary use agreement/ permit, such as to enable the sale of the wireless telecommunications facilities.
- C. The holder of the special use permit, or its successors or assigns, shall dismantle and remove such wireless telecommunications facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 calendar days of receipt of written notice from the Town. However, if the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so with the approval of the Town Board.
- D. If wireless telecommunications facilities are not removed or substantial progress has not been made to remove the wireless telecommunications facilities within 90 calendar days after the permit holder has received notice, then the Town Board may order officials or representatives of the Town to remove

the wireless telecommunications facilities at the sole expense of the owner or special use permit holder.

- E. If, the Town removes, or causes to be removed, wireless telecommunications facilities, and the owner of the wireless telecommunications facilities does not claim and remove them from the site to a lawful location within 10 calendar days, then the Town Board may take steps to declare the wireless telecommunications facilities abandoned, and sell them and their components.
- F. Notwithstanding anything in this section to the contrary, the Town Board may approve a temporary use permit/agreement for the wireless telecommunications facilities, for no more than 90 calendar days, during which time a suitable plan for removal, conversion, or relocation of the affected wireless telecommunications facilities shall be developed by the holder of the special use permit, subject to the approval of the Town Board, and an agreement to such plan shall be executed by the holder of the special use permit and the Town. If such a plan is not developed, approved and executed within the ninety-day time period, then the Town may take possession of and dispose of the affected wireless telecommunications facilities in the manner provided in this section.

Section 13.25 - Relief

- A. Any applicant desiring relief, waiver or exemption from any aspect or requirement of this Article may request such at the pre-application meeting, provided that the relief or exemption is contained in the submitted application for either a special use permit or, in the case of an existing or previously granted special use permit, a request for modification of its tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver, or exemption is solely on the applicant. The applicant shall bear all costs of the Town in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted, the relief, waiver or exemption will have no significant effect on the health, safety, and welfare of the Town, its residents and other service providers.

Section 13.26 - Periodic Regulatory Review by Town

- A. The Town Board may at any time conduct a review and examination of this entire Article.
- B. If, after such a periodic review and examination of this Article, the Town Board determines that one or more provisions of this Article should be amended, repealed, revised, clarified, or deleted, then the Town Board may take whatever measures are necessary in accordance with applicable Law in order to accomplish the same. It is noted that where warranted, and in the best interests of the Town, the Town Board may repeal this entire Article at any time.
- C. Notwithstanding the provisions of Subsections A and B of this section, the Town Board may at any time and in any manner (to the extent permitted by federal, state, or local law) amend, add, repeal, and/or delete one or more provisions of this Article.

Section 13.27 - Adherence to State and/or Federal Rules and Regulations

- A. To the extent that the holder of a special use permit for wireless telecommunications facilities has not received relief, or is otherwise exempt, from appropriate state and/or federal agency rules or regulations, then the holder of such a special use permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any state or federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.
- B. To the extent that applicable rules, regulations, standards, and provisions of any state or federal agency, including, but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security, are changed and/or are modified during the duration of a special use permit for wireless telecommunications facilities, then the holder of such a

special use permit shall conform the permitted wireless telecommunications facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of 24 months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

Section 13.28 - Conflict with Other Laws

- A. Where this Article differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the Town, state or federal government, this Article shall apply.

Article XIV. Nonconformities

Section 14.01 - Application

- A. All lawful structures and uses not conforming to the regulations of the district in which they are located at the time of the effective date of this Law or amendments thereto shall be known and regarded as "non-conforming".

Section 14.02 - Continuation

- A. A non-conforming structure or use may be continued subsequent to adoption of this Law, provided that no such structure may be enlarged or altered in a way which increases its non-conformity, and no such use shall be enlarged or increased to occupy a greater area of land than was occupied at the effective date of adoption of this Law except in accordance with Section 14.03 below.

Section 14.03 - Alteration or Extension

- A. A nonconforming use or structure may not be enlarged, moved or expanded, increased in intensity nor may a nonconforming use or structure be changed except to a conforming use or structure. Such prohibited activity shall include the expansion of a nonconforming use within a building or other structure to any portion of the floor area that was not occupied by such legal nonconforming use on the effective date of this Law, or any amendment to this Law, which causes such use to become nonconforming.

Section 14.04 - Restoration

- A. No structure damaged by fire or other causes to the extent of more than fifty (50%) percent of its fair market value shall be repaired, reconstructed or used except in conformity with the regulations of this Law. Any structure damaged by fire or other causes to the extent of more than seventy-five (75%) of its fair market value shall be removed within six (6) months from the date of damage.
- B. Any structure with damage to the extent of fifty (50%) percent or less of the fair market value may be reconstructed, repaired, or used for the same non-conforming use subject to the following provisions:
1. The reconstructed structure shall not exceed the height, area or volume of the damaged structure except as provided by Section 14.03 above.
 2. The structure shall be stabilized as immediately as practicable after the event of damage to the structure.
 3. A building permit shall be secured within six (6) months of the date of damage. Reconstruction shall begin within ninety (90) days after issuance of the building permit and shall be carried on without interruption. If a building permit is not secured within six (6) months of the date of damage and reconstruction does not begin within ninety (90) days after issuance of the building permit, the status of the non-conforming use or structure shall be discontinued.

Section 14.05 - Abandonment

- A. Whenever a non-conforming use has been abandoned for a period of twelve (12) consecutive months, such use shall not thereafter be reestablished and any future use shall be in conformity with the provisions of this Law.

Section 14.06 - Changes

- A. Once changed to a conforming use, no structure or land shall be permitted to revert to a non-conforming use. A non-conforming use may be changed to another non-conforming use only under the following conditions:

1. Such change shall be permitted only by Special Use Permit, under the provisions of Article VII.
2. The applicant shall show that the non-conforming use cannot reasonably be changed to a permitted use in the district where such non-conforming use is located. The burden of proof is on the owner of the use or applicant for the Special Use Permit being sought.
3. The applicant shall show that the proposed change will be less objectionable in external effects than the existing non-conforming use with respect to:
 - a. Traffic generation and congestion including truck, passenger car, and pedestrian traffic.
 - b. Noise, smoke, dust, noxious matter, heat, glare, vibration
 - c. Storage and waste disposal
 - d. Appearance

Section 14.07 - Displacement

- A. No non-conforming use shall be extended as may be permitted by Section 14.03 above which would result in the displacement of a conforming use.

Section 14.08 - Zoning District Changes

- A. Whenever the boundaries of a zoning district shall be changed so as to transfer an area from one zoning district to another zoning district of a different classification, the foregoing provisions shall also apply to any non-conforming uses or structures existing or created by such transfer.

Section 14.09 - Zoning Permit Required

- A. Zoning permits shall be issued by the Code Enforcement Officer for all non-conforming uses existing at the effective date of this Law. The zoning permit shall include a statement that the use is non-conforming and shall list the specific conditions under which said use may continue. It shall be signed by both the Code Enforcement Officer and the Owner. The burden of seeking out and securing a Zoning Permit for a non-conforming use is that of the property owner and not the Code Enforcement Officer.

Article XV. Subdivision Regulations

Section 15.01 - Authority for Plat Approval and Compliance with Policy

- A. Approval of Plats. By the authority of the New York State Town Law, Article 16, §276, §277, §278, and §279; and the resolution of the Town Board of the Town of Throop, the Planning Board is authorized and empowered to approve plats showing lots, blocks or sites, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of the County and to approve preliminary plats within the code enforcement of the Town of Throop .
- B. It is the policy of the Planning Board to consider land subdivision plats as part of a plan for the orderly, efficient, and economical development of the Town of Throop. This means, among other things that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace and that proper provisions shall be made for drainage, water supply, sewage, and other needed improvements.
- C. All proposed lots shall be laid out and of such a size so as to be in harmony with the development pattern of neighboring properties, so that the proposed streets shall compose a convenient system conforming to the Official Map of the Town of Throop. Lot layout shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection, and to provide access of firefighting equipment to buildings. Proper provisions shall also be made for open spaces for parks, playgrounds, or for natural resource protection.
- D. In order that land subdivisions may be made in accordance with this policy, these regulations shall be known as the “Town of Throop Subdivision Regulations.” Failure to notify the Code Enforcement Officer of any conveyance by subdivision shall be a violation of this law and will be enforced by both civil action and financial penalties inclusive of injunctive relief to the effect of terminating such conveyances.

Section 15.02 – Definitions

- A. As used in this Law, the following terms shall have the meanings indicated:

APPLICANT - Any person, firm, corporation, partnership or association who shall lay out any subdivision or part thereof as defined herein, either personally or on behalf of ownership, lessee or building development, and shall include re-subdivision.

COLLECTOR STREET - A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.

DATE OF SUBMISSION - The date on which a complete subdivision application is considered submitted to the Planning Board.

DEAD-END STREET OR CUL-DE-SAC - A street or portion of a street with only one vehicular traffic outlet.

DRAINAGE RIGHT-OF-WAY - The lands required for the installation of stormwater sewers or drainage ditches or field tiles are required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage.

MAJOR STREET - A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

MAJOR SUBDIVISION - Any subdivision not classified as a minor subdivision, including but not limited to subdivisions of five (5) or more lots or any sized subdivision requiring a new street or extension of municipal facilities.

MINOR STREET - A street intended to serve primary access to abutting properties.

MINOR SUBDIVISION - Any subdivision which contains not more than four (4) lots fronting on an existing street; does not include any new street or road; does not require the extension of municipal facilities; does not adversely affect adjacent properties; and is not in conflict with any provision of the Comprehensive Plan and Official Zoning Map of the Town of Throop, or these regulations.

OFFICIAL MAP - A map, adopted by a legislative body through a resolution or ordinance, showing existing streets and approved proposed streets, parks, and other public places.

PRELIMINARY PLAT - A drawing or drawings, clearly marked ‘preliminary plat,’ showing the significant features of a proposed subdivision.

RE-SUBDIVISION - Revision of all or part of an existing filed plat.

SIMPLE SUBDIVISION - Any Subdivision not classified as Minor or Major where only one (1) new lot is created or where lot lines are rearranged.

STREET PAVEMENT - The wearing or exposed surface of the roadway used by vehicular traffic.

STREET WIDTH - The width of the right-of-way, measured at right angles to the centerline of the street.

SUBDIVISION - The legal division of any tract of land into two (2) or more lots, plots, sites or other divisions of land for the purpose, whether immediate or future, of transfer of ownership, lease or building development, and shall include re-subdivision.

SUBDIVISION PLAT OR FINAL PLAT - A drawing, in final form, showing a proposed subdivision, containing all information or details required by law and by these regulations to be presented to the Planning Board for approval and which, if approved, may be duly filed or recorded by the applicant in the office of the County Clerk.

SURVEYOR - A person licensed as a land surveyor by the State of New York.

Section 15.03 – Subdivision Procedures

- A. Classification of Subdivision and Pre-Application Conference. The first stage of subdivision is classification. Classification requires that an applicant schedule and attend a pre-application conference with the Code Enforcement Officer and / or Planning Board at a regular Planning Board meeting. For this conference the applicant shall submit a Sketch Plat of the proposed subdivision to the Code Enforcement Officer that provides sufficient detail to classify the action as to the type of review required.
- B. The Sketch Plat initially submitted to the Code Enforcement Officer shall be based on tax map information or on some other similarly accurate base map at a scale of one-inch equals two hundred feet (1" = 200'). A submitted Sketch Plat shall show the following information:
 - 1. The location of that portion which is to be subdivided in relation to the entire tract, and the distance to the nearest existing street intersection.
 - 2. All existing structures, wooded areas, streams, wetlands, flood hazard areas and other significant physical features within the portion to be subdivided and within 200 feet thereof.
 - 3. If topographic conditions are significant, contours shall also be indicated at intervals of not more than ten (10) feet.

4. The tax map, block and lot numbers of all lots shown on the plat.
5. The names of the owner and of all adjoining property owners as disclosed by the current tax roll.
6. All the utilities available and all streets as they appear on the Official Map.
7. The proposed pattern of lots (with dimensions), street layout, recreation areas, systems of drainage, sewerage, and water supply within the subdivided area.
8. All existing restrictions on the use of land, including easements, covenants and zoning district boundary lines.

Section 15.04 – Consultation and Reimbursable Costs

- A. The Planning Board may choose at any point in a subdivision review process to request consultants for review, comment, and advice on any aspect of the approval process, subdivision design, engineering specifications, or other pertinent matters.
- B. Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed subdivision or inspection of required improvements shall be charged to the applicant. Estimated review fees shall be deposited into an escrow account when making application for preliminary subdivision approval. Such fees may include staff costs or consultant fees covering planning, engineering, environmental analysis, wetland delineation, legal review, and other technical services required for a proper and thorough professional review of the application. No permit shall be issued until all costs have been paid. The Town shall account for the expenditure of all such funds and shall promptly refund any unexpended funds within twenty (20) business days of final action by the Planning Board.

Section 15.05 – Simple Subdivision Review Procedure

- A. Review of a Simple Subdivision Plat is a two-step process consisting of a pre-application conference as required by Section 15.03 hereof and a plat review and approval. After a pre-application conference, the Planning Board Chair shall act, whether during a Planning Board meeting or not, to approve; conditionally approve with modifications; disapprove; or grant final approval. In any event, final approval cannot be granted until a copy of an official survey map prepared by a surveyor licensed by New York State has been presented to the Code Enforcement Officer and Planning Board Chair, and such map indicates that all of the requirements of the Town of Throop Zoning Law have been satisfied. Final approval of the Simple Subdivision by the Planning Board Chair shall be indicated by the Chair's signature and date on the final survey map.

Section 15.06 – Minor Subdivision Review Procedure

- A. Review of a Minor Subdivision Plat is a two-step process consisting of a pre-application conference as required by Section 15.03 hereof and a plat review and approval. A Minor Subdivision Plat review shall include an environmental review in accordance with NYS SEQR requirements.
 1. Environmental review. The environmental review is conducted to determine if the project, as proposed, would result in any significant adverse environmental impact and to identify design modifications that would mitigate potential adverse environmental impacts identified. Unless overriding circumstances exist, the Planning Board shall serve as the lead agency for conducting the environmental review on all subdivision proposals.

2. The Planning Board will review the Minor Subdivision Plat taking into account staff reports and involved and interested agencies to which the plat was referred. The Planning Board then may refer the applicant to appropriate officials or agencies to resolve any issues of design or legal requirements of the respective agencies.
- B. Submission of Application. Within six (6) months after the pre-application conference and the classification of a Sketch Plat as a Minor Subdivision by the Code Enforcement Officer and Planning Board, the applicant shall submit an application for approval of a Minor Subdivision Plat. Failure to do so shall require resubmission of the Sketch Plat to the Code Enforcement Officer and Planning Board for reclassification. The Minor Subdivision Plat shall conform to the layout shown on the Sketch Plat as well as incorporate any recommendations made during the pre-application conference. Applications shall be submitted to the Code Enforcement Officer at least two weeks in advance of the next regularly scheduled Planning Board meeting; and shall include:
1. A complete application form.
 2. At least four (4) copies of the Minor Subdivision Plat.
 3. Supplemental information as required including SEQR documents.
 4. The application fee established by resolution of the Town Board and may be amended from time to time by resolution of the Town Board. The application fee shall be used to cover part of the cost of the subdivision review process, including administrative costs such as public hearing notices, inspections, communications, etc.
- C. Requirements for Minor Subdivision Plat Review. A Minor Subdivision Plat Application shall include the following information:
1. A copy of such covenants or deed restrictions that are intended to cover all or part of the tract.
 2. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corner of each tract shall also be located on the ground and marked with an approved pin, pipe, or monument and shall be referred to and shown on the plat.
 3. The proposed lot lines with the approximate dimensions and area of each lot.
 4. All on-site sanitation and water supply facilities (if any) shall be designed to meet the specifications of the Cayuga County Health Department; approval shall be stated on the plat and signed by an officer of the Cayuga County Health Department.
 5. The proposed subdivision name (if any), and the names of the Town and County in which it is located.
 6. The date, a true-north arrow, the map scale, and the names, addresses, and phone numbers of all owners of record and the applicant.
 7. The Minor Subdivision Plat shall be a clear, legible reproduction that meets the standards for filing with the Cayuga County Clerk as prescribed by law.
 8. Compliant with all requirements as specified in the local laws of the Town of Throop governing stormwater runoff management.

- D. Applicant to Attend Planning Board Meeting on Minor Subdivision Plat. The applicant, or a duly authorized representative, shall attend the meeting of the Planning Board at which a Subdivision Plat is discussed.
- E. Public Hearing on Minor Subdivision Plat. If required by the Planning Board, a public hearing shall be held within 62 calendar days of the date of submission of required materials. The hearing must be advertised at least ten (10) business days before such hearing can occur. If no public hearing is required, the Planning Board shall have 62 calendar days from the date of submission to make its decision. When an applicant is notified of the public hearing date, the applicant shall be required to obtain signage, provided by the Planning Board, and obtained from the Code Enforcement Officer. The applicant shall post this signage at the site, in such a manner as to be readily visible to the public from the nearest adjacent public road, at least ten (10) business days prior to the public hearing.
- F. Action on Minor Subdivision Plat.
 - 1. The Planning Board shall, within 62 calendar days of the date of the public hearing, act to conditionally approve; conditionally approve with modification; disapprove; or grant final approval to and authorize the signing of the Final Subdivision Plat by the Planning Board Chair. This time may be extended by mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within such time, in the absence of a mutually agreed upon extension, shall constitute approval of the plat.
 - 2. Upon granting conditional approval with or without modification to the plat, the Planning Board shall empower the Planning Board Chair to sign the plat upon compliance with such conditions and requirements as may be stated in the Board's resolution of conditional approval.
 - 3. Within five (5) business days of the resolution granting conditional approval, the plat shall be certified by the Chair of the Planning Board as conditionally approved; a copy shall be filed in the Town Clerk's office; and a certified copy shall be mailed to the applicant. The copy mailed to the applicant shall include a certified statement of such requirements as, when completed, will authorize the signing of the conditionally approved plat.
 - 4. Upon completion of the requirements in the resolution of approval, the plat shall be signed by the Chair of the Planning Board. Conditional approval of the plat shall expire 180 calendar days after the date of the resolution granting such approval. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if in its opinion such extension is warranted in the circumstances. Such extension is not to exceed two additional periods of 90 calendar days each.

Section 15.07 – Major Subdivision Preliminary Plat Review Procedure

- A. Review of a Major Subdivision Plat is a three-step process consisting of a pre-application conference as required by Section 15.03 hereof, a preliminary plat review and approval, and a final plat review and approval. A Major Subdivision Plat review shall include an environmental review in accordance with NYS SEQR requirements and shall be conducted by the Planning Board.
 - 1. Environmental review. The environmental review is conducted to determine if the project, as proposed, would result in any significant adverse environmental impact and to identify design modifications that would mitigate potential adverse environmental impacts identified. Unless

overriding circumstances exist, the Planning Board shall serve as the lead agency for conducting the environmental review on all subdivision proposals.

2. The Planning Board will review the Major Subdivision Plat taking into account staff reports and the comments of the chosen Town Engineer and involved and interested agencies to which the plat was referred. The Planning Board then may refer the applicant to appropriate officials or agencies to resolve any issues of design or legal requirements of the respective agencies.
- B. Submission of Application. Within twelve (12) months after the pre-application conference and the classification of a Sketch Plat as a Major Subdivision by the Code Enforcement Officer and Planning Board, the applicant shall submit an application for approval of a Major Subdivision Plat. Failure to do so shall require resubmission of the Sketch Plat to the Code Enforcement Officer and Planning Board for reclassification. The Major Subdivision Plat shall conform to the layout shown on the Sketch Plat as well as incorporate any recommendations made during the pre-application conference. The application shall also conform to the requirements listed in Section 15.08.
1. Applications shall be submitted to the Code Enforcement Officer at least two weeks in advance of the next regularly scheduled Planning Board meeting; and shall include:
 - a. A complete application form, at least nine (9) copies of the Major Subdivision Plat printed full size, one (1) copy of the Major Subdivision Plat printed on 11"x17" paper, and a digital copy in .pdf format on a CD or other acceptable device. The applicant may be required to submit additional copies of the application if the Planning Board determines that other officials, agencies, or consultants need to be informed about the project.
 - b. All copies of the Preliminary Plat shall be clearly marked with the words "Preliminary Subdivision Plat". The Preliminary Plat shall, in all respects, comply with the requirements set forth in the provisions of the New York State Town Law Article 16, §276 , except where a waiver may be specifically authorized by the Planning Board.
 - c. All documents showing construction details of proposed improvements, any supporting materials or engineering reports and a completed environmental assessment form or, if required, a draft environmental impact statement.
 - d. The application fee established by resolution of the Town Board and may be amended from time to time by resolution of the Town Board. The application fee shall be used to cover part of the cost of the subdivision review process, including administrative costs such as public hearing notices, inspections, communications, etc.
 2. The date of submission of the Preliminary Plat shall be considered to be the date on which the Code Enforcement Officer accepts as complete the Preliminary Plat and all data required. The Code Enforcement Officer shall note the date on the Preliminary Plat Application.

Section 15.08 – Requirements for Major Subdivision Preliminary Plat Review.

- A. Preliminary Plat maps shall include the following information:
1. The proposed subdivision name; the names of the Town and County in which it is located; the date; a true-north arrow; the map scale; and the names, addresses and phone numbers of

- all owners of record, the applicant, and the architect, engineer, or surveyor including license number(s) and seal(s).
2. The names of the owners of record of all adjoining properties.
 3. The zoning district, including exact boundary of districts, where applicable.
 4. All parcels of land proposed to be dedicated to public use and the condition of such dedication.
 5. The locations of existing property lines, easements, buildings, watercourses, marshes, rock outcrops, and wooded areas.
 6. The locations of existing sewers, water mains, culverts, and drains on the property, with pipe sizes, grades, and direction of flow.
 7. Contours with intervals of ten (10) feet or less as required by the Planning Board, including elevations on existing roads, and an approximate grading plan if natural contours are to be changed more than two (2) feet.
 8. The width and location of any streets or public ways or places shown on the Official Map of the Town of Throop within the area to be subdivided, and the width, location, grades and street profiles of all streets or public ways proposed by the developer.
 9. The approximate location and size of all proposed water lines, valves, hydrants, sewer lines, and fire alarm boxes. Connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in standards established by the Cayuga County Health Department. Show profiles of all proposed water and sewer lines.
 10. All requirements as specified in local laws of the Town of Throop governing stormwater runoff; a stormwater management plan indicating the approximate location, construction and size of swales; and proposed lines and their profiles. Ramification of connections to existing or alternate means of disposal.
 11. Plans and cross-sections showing the proposed new location and types of sidewalks, street lighting standards, street trees, curbs, water mains, and storm drains, and the size and type thereof.
 12. Preliminary designs of any bridges or culverts which may be required.
 13. The proposed lot lines with the approximate dimensions and area of each lot.
 14. Where the topography is such as to make difficult the inclusion of any of the required facilities within the public areas as laid out, the Preliminary Plat shall show the boundaries of proposed permanent easements over or under private property, which permanent easements shall not be less than 20 feet in width, and which shall provide satisfactory access to an existing public highway or other public open space shown on the subdivision or the Official Map.
 15. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked with an approved pin, pipe or monument as approved by the Town Board, and shall be referred to and shown on the plat.

16. If the application covers only a part of the applicant's holding, a map of the entire tract shall be submitted so that the part of the applicant's holding covered in the application can be considered in the light of the entire holding. This map shall be drawn at a scale of one-inch equals two-hundred feet (1" = 200') and shall show an outline of the platted area with its proposed streets, and an indication of any probable future street system with its grades and drainage in the remaining portion of the tract, and any probable future drainage layout of the entire tract.
 17. A copy of any covenants or deed restrictions that are intended to cover all or part of the tract.
- B. Applicant to Attend Planning Board Meeting. The applicant or a duly authorized representative shall attend the meeting of the Planning Board to discuss the Preliminary Plat.
 - C. Study of Major Subdivision Preliminary Plat. The Planning Board shall study the practicability of a Preliminary Plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location, and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet un-subdivided, and the requirements of the Town of Throop Comprehensive Plan, the Official Map, and Zoning Regulations.
 - D. Public Hearing on Major Subdivision Preliminary Plat.
 1. Within 62 calendar days of the Date of Submission of a Preliminary Plat marked as complete by the Code Enforcement Officer, the Planning Board shall hold a public hearing. When an applicant is notified of the public hearing date, the applicant shall be required to obtain signage provided by the Planning Board by way of the Code Enforcement Officer and to post it at the site, in such a manner as to be readily visible to the public from the nearest adjacent public road, at least ten (10) business days prior to the public hearing. The public hearing shall be advertised at least once in the official newspaper and town website at least ten (10) business days before such hearing. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such Preliminary Plat.
 - E. Planning Board Approval of Preliminary Plat.
 1. Within 62 calendar days of the date of the public hearing, the Planning Board shall approve with or without modification, or disapprove the Preliminary Plat; and the grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. The time in which the Planning Board must take action on such plat may be extended by written mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within such time, in the absence of a mutually agreed upon extension, shall constitute approval of the Preliminary Plat.
 2. Conditional Approval of Preliminary Plat. When granting approval to a Preliminary Plat, the Planning Board shall state the terms of such approval, if any, with respect to:
 - a. Modifications to the Preliminary Plat.
 - b. The character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, and welfare.

- c. The required improvement or the amount of all bonds therefore which it will require as prerequisite to the approval of the Final Subdivision Plat.
3. Effect of Approval of Preliminary Plat. Approval of a Preliminary Plat shall not constitute approval of the Final Subdivision Plat, but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plat as a guide to the preparation of the Final Subdivision Plat, which will be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these regulations. When approving a Preliminary Plat, the Planning Board shall state in writing the modifications, if any, it deems necessary for submission of the plat in final form. Within five (5) business days of the approval of such Preliminary Plat, it shall be certified by the Planning Board Chair as having been granted preliminary approval and a copy shall be filed with the Town Clerk, a certified copy shall be mailed to the owner, and a copy shall be forwarded to the Town Board. Prior to approval of the Final Subdivision Plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at the public hearing.

Section 15.09 – Major Subdivision Final Plat Application

- A. Purpose. This step provides for a refinement of information submitted in the Preliminary Plat review procedure through submission of additional information about site design and improvements. This information permits the Planning Board and the Code Enforcement Officer to make decisions concerning the appropriateness of the proposed Major Subdivision. Some important considerations include but are not limited to:
 1. Conditions of the preliminary plat approval.
 2. Mitigating measures identified during the environmental review.
 3. Offers of dedication of land for open space and recreation, or of new public roads.
 4. Requirements of involved agencies.
 5. Drainage considerations.
 6. Phasing of the proposed project if the project is to be phased.
 7. Surety for improvements.
- B. Submission of Application. Within six (6) months after the approval of a Preliminary Plat, the applicant shall submit an application for approval of a Final Subdivision Plat in final form. If the Final Subdivision Plat is not submitted for approval within six (6) months after the approval of the Preliminary Plat, the Planning Board may refuse to approve the Final Subdivision Plat and require submission of the Preliminary Plat.
 1. Applications shall be submitted to the Code Enforcement Officer at least two weeks in advance of the next regularly scheduled Planning Board meeting; and shall include:
 - a. A complete application form; at least nine (9) copies of the Final Major Subdivision Plat printed full size; one (1) original paper copy with original signatures and professional seals in ink of the Final Major Subdivision Plat printed full size; one (1) copy of the Final Major Subdivision Plat printed on 11"x17" paper; the original and one (1) copy of all offers of cession, covenants and agreements; two (2) copies

printed full size of all construction drawings; and a digital copy in .pdf format of all materials listed above on a CD or other acceptable device.

- b. All copies of the Final Plat shall be clearly marked with the words “Final Subdivision Plat”.
- c. The application fee established by resolution of the Town Board and may be amended from time to time by resolution of the Town Board. The application fee shall be used to cover part of the cost of the subdivision review process, including administrative costs such as public hearing notices, inspections, communications, etc.

Section 15.10 - Endorsement of State and County Agencies

- A. Applications for approval of plans for sewer or water facilities shall be filed by the applicant with all necessary Town, County, and State agencies. Endorsement and approval by said agencies shall be secured by the applicant prior to official submission of the Final Subdivision Plat for approval by the Planning Board.

Section 15.11 – Major Subdivision Required Improvements

- A. Surety. Before the Planning Board grants final approval of a Major Subdivision Final Plat, the applicant shall follow the procedure set forth in either Section 15.11, B or Section 15.11, C below.
- B. Full Cost Check or Bond. In an amount set by the Planning Board, the applicant shall either file with the Town Clerk a certified check to cover the full cost of the required improvements, or the applicant shall file with the Town Clerk a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of the New York State Town Law Article 16, §277, and further shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution, and surety. A period of one (1) year, or such other period as the Planning Board may determine appropriate, not to exceed three (3) years, shall be set forth in the bond as the time within which required improvements must be completed.
- C. Check or Bond for Completion. The applicant shall complete all required improvements to the satisfaction of the Code Enforcement Officer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Planning Board. For any required improvements not so completed, the applicant shall file with the Town Clerk a bond or certified check covering the costs of such improvements. Any such bond shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution, and surety.

Section 15.12 - Public Hearing and Review of Major Subdivision Final Plat

- A. Within 62 calendar days of the date of submission of a Major Subdivision Final Plat in final form for approval, a public hearing shall be held by the Planning Board. This hearing shall be advertised at least once in the official newspaper of the Town and at least ten (10) business days before the hearing. If, however, the Planning Board deems the final plat to be in substantial agreement with a Preliminary Plat approved under Section 15.08, E hereof; or modified in accordance with the requirements of a conditional approval or approval with modifications, the Planning Board may waive the requirement for such a public hearing.

Section 15.13 - Planning Board Action on Major Subdivision Final Plat

- A. Prescribed time for Action. The Planning Board action shall be by resolution to conditionally approve with or without modification; disapprove; or grant final approval to and authorize the signing of the plat by the Planning Board Chair. The action is to be taken within 62 calendar days of the public hearing, if one was held, and if no public hearing was held, within 62 calendar days of the date of submission. This time may be extended by written mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within such time, in the absence of a mutually agreed upon extension, shall constitute approval of the Final Plat.
- B. Conditional Approval. Upon resolution of conditional approval of a Final Plat, the Planning Board shall empower the Planning Board Chair to sign the plat upon completion of such requirements as may be stated in the resolution. Within five (5) business days of such resolution, the plat shall be certified by the Planning Board Chair as conditionally approved, and a copy filed in the Town Clerk's office, and a certified copy mailed to the applicant. The copy mailed to the applicant shall include a certified statement of such requirements as, when completed, will authorize the signing of the conditionally approved Final Plat.
- C. Certification by Planning Board Chair. Upon completion of such requirements, the plat shall be signed by the Planning Board Chair.
- D. Expiration of Approval. Conditional approval of a Final Plat shall expire 180 calendar days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if in its opinion such extension is warranted by the circumstances; such extension is not to exceed two (2) additional periods of 90 calendar days each.

Section 15.14 - Final Approval of Major Subdivision Plat

- A. Signature of Planning Board Chair. Upon completion of the requirements in Sections 15.09 through 15.13 hereof and notation to that effect upon the Final Subdivision Plat, the Final Plat shall be deemed to have final approval and shall be properly signed by the Planning Board Chair. The approved Final Plat shall also be signed by the Cayuga County Health Department and the Cayuga County Real Property Office before it may be recorded with the Cayuga County Clerk.
- B. Prompt Filing. Any Subdivision Plat that is not filed or recorded within 30 calendar days of the date upon which the plat is approved or considered approved by reason of the failure of the Planning Board to act shall become null and void.
- C. Copies of Recorded Plat Submitted to the Town. The applicant shall provide the Town Clerk with three (3) paper copies printed full size and a digital copy in .pdf format on a CD or other acceptable device of the fully endorsed and recorded Final Plat within 30 calendar days of approval and signature by the Planning Board Chair. If the required paper and digital copies of the recorded final plat map(s) have not been submitted within the designated 30 calendar days, the Code Enforcement Officer will not review or issue a building permit until the Town has received the appropriate copies of the recorded final subdivision plat map(s).
- D. Plat Void if Altered After Approval. No changes, erasures, modifications, or revisions shall be made in any Subdivision Plat after approval has been given by the Planning Board and endorsed in writing on the plat, unless the plat is first resubmitted to the Planning Board and the Board approves any

modifications. In the event that any such Subdivision Plat is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

Section 15.15 - Modification of Design Improvements

- A. If, at any time during the construction of required improvements, it is demonstrated to the satisfaction of the Code Enforcement Officer that unforeseen conditions make it necessary to modify the location or design of the required improvements, the Code Enforcement Officer may, upon approval by the Planning Board Chair, authorize modifications, provided that these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The Code Enforcement Officer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.

Section 15.16 - Inspection of Improvements

- A. Inspection Fee. At least five (5) business days prior to commencing construction of required improvements, an applicant shall pay to the Town Clerk the inspection fee required by the Town and shall notify the Code Enforcement Officer in writing of the time when the applicant proposes to commence construction of the improvements, so that the Code Enforcement Officer may cause inspection to be made to assure that all Town specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.
- B. Proper Installation of Improvements. No Certificate of Occupancy shall be issued until all improvements shown on the final approved subdivision plat are installed. If the chosen Town Engineer finds, upon inspection of the improvements performed before the expiration date of a performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the applicant, the engineer shall so report to the Code Enforcement Officer and Planning Board. The Town then shall notify the applicant and, if necessary, the bonding company, and take all necessary steps to preserve the Town's rights under the bond.
1. Underground Utilities Map. The required improvements shall not be considered to be completed until the installation of the improvements has been approved by a licensed engineer or surveyor and a map satisfactory to the Code Enforcement Officer has been submitted indicating the location of monuments marking all underground utilities as actually installed.

Section 15.17 - General Requirements and Design Standards

- A. In considering applications for subdivision of land, the Planning Board shall be guided by the following principles and the standards set forth in Sections 15.17, B through 15.17, M hereof. These standards shall be considered minimum requirements and shall be waived by the Planning Board only under circumstances set forth in Section 15.18 hereof. In addition, the following criterion shall be followed:
1. Character of Land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace.

2. Conformity with the Town of Throop Official Map and Comprehensive Plan. Subdivisions shall conform to the Official Map of the Town of Throop and shall be in harmony with the Town of Throop Comprehensive Plan.
3. Specifications for Required Road Improvements. Specifications and consultation may be obtained from the Town Highway Superintendent.

B. Road Considerations.

1. Statement of Acceptance. All roads that are to be dedicated as public roads must comply with the standards set forth in this document. All access roads that are not to be dedicated as public roads must comply with the New York State Town Law, Article 16, §280, §280a, and §281. Roads will be accepted only if they are free and clear of all liens, encumbrances, easements, and rights-of-way. A written statement of acceptance must be filed by the Town Highway Superintendent and the Town Attorney before any road shall be accepted by the Town Board. New curb-cuts (driveway or roadway openings) onto all County routes shall be reviewed by the Cayuga County Highway Superintendent and approved prior to installation and approval for acceptance by the Town.
2. Width, Location, and Construction. Roads shall be sufficiently wide, suitably located, and adequately constructed to conform to the Town of Throop Official Map and to accommodate the prospective traffic and afford access for firefighting, snow removal, and other road-maintenance equipment. The arrangement of roads shall be such as to cause no undue hardship to adjoining properties and shall be coordinated so as to compose a convenient system.
3. Arrangement of Roads. The arrangement of roads in a subdivision shall provide for the continuation of principal streets of adjoining subdivisions; and for proper projection of principal streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic, and the construction or extension, presently or when later required, of needed utilities and public services such as sewers, water lines, and drainage facilities. Subdivisions containing 20 lots or more shall have at least two (2) street connections with existing public streets, or streets shown on the Official Map, if such exist, or streets on an approved Subdivision Plat for which a bond has been filed. Where, in the determination of the Planning Board, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified. The Planning Board may require the reservation of a 20-foot-wide easement to provide for continuation of pedestrian traffic and utilities to the next street.
4. Minor Roads. Minor roads shall be laid out so that their use by through traffic will be discouraged.
5. Loop Residential Roads and Circle Drives. The creation of loop residential roads will be encouraged wherever the Planning Board finds that such roads are needed or desirable. Circle drives create problems for snow plowing and are discouraged.
6. Dimensions of Blocks. Blocks generally shall not be less than 400 feet nor more than 1,200 feet in length. In general, no block width shall be less than twice the normal lot depth. In blocks exceeding 800 feet in length, the Planning Board may require the reservation of a 20-foot-wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a four (4)-foot-wide paved foot path be included.

- C. Further Road Improvements, Including Hydrants and Lighting. Roads may require curbs and gutters, sidewalks, storm drainage facilities, water mains, sewers, street lights and signs, street trees and fire hydrants, except where waivers may be requested, and the Planning Board may waive, subject to appropriate conditions and in consultation with the Town Highway Superintendent or an Engineer

designated to the project by the Town, such improvements as it considers may be omitted without jeopardy to the public health, safety and general welfare.

1. Fire hydrants shall conform to all requirements of standard thread and nut as specified by the New York Fire Insurance Rating Organization and the Division of Fire Safety of the State of New York and the Town of Throop specifications or laws for public water service.
 2. Lighting facilities shall be in conformance with the following standards. Such lighting standards and fixtures shall be installed after approval by the appropriate power company and the authorized Town representative designated as an electrical inspector:
 - a. All lighting shall be located such as to prevent the direct rays from shining upon adjacent properties.
 - b. All flickering, pulsating, or flashing lights and exposed neon lights are specifically prohibited.
 - c. No light, which may tend to confuse the motoring public, shall be permitted.
- D. Utilities. The Planning Board shall require that utilities be placed in the road right-of-way between the paved roadway and road line to simplify location and repair of lines when they require attention. The applicant shall install service connections to the property line of each lot within the subdivision for such required utilities before the road is paved. Where topography is such as to make impractical the inclusion of utilities within the road rights-of-way, perpetual unobstructed easements at least twenty (20)-feet in width shall be otherwise provided with satisfactory access to the road. Wherever possible, easements shall be continuous from block to block and shall present as few irregularities as possible. Such easements shall be cleared and graded where required.
- E. Watercourses. Where a watercourse separates a proposed road from abutting property, provision shall be made for access to all lots by means of culverts or other structures of design approved by the Town Highway Superintendent or an Engineer designated to the project by the Town. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way as required by the Town Highway Superintendent or an Engineer designated to the project by the Town, which in no case shall be less than twenty (20)-feet in width.
- F. Service Roads. Paved rear service roads of not less than twenty (20)-feet in width, or in lieu thereof adequate off-road loading space, surfaced with a suitable, dust-free material, shall be provided in connection with lots designed for commercial use.
- G. Road Names. All road names shown on a Preliminary Plat or Subdivision Plat shall be approved by the Planning Board. In general, roads shall have names and not numbers or letters. Proposed road names shall be substantially different so as not to be confused in sound or spelling with present names in this or nearby municipalities, except that roads that join or are in alignment with roads of an abutting or neighboring property shall bear the same name. Generally, no road should change direction sharply or at a corner without a change in name. Before any road name is approved by the Town, the Town shall provide the proposed name to the Cayuga County 911 GIS Coordinator so that it can be checked against the list of names within the existing County database to ensure that there will be no confusion as to the unique identity and location of the proposed road name within the Town and nearby municipalities.
- H. Considerations for Lots:
1. Lots shall be buildable. The lot arrangement shall be such that in constructing a building in compliance with the zoning regulations, there will be no foreseeable difficulties for reasons of topography or other natural conditions. Lots approved in a subdivision cannot be further divided.
 2. Side Lines. All side lines of lots shall be at right angles to straight road lines and radial to curved road lines, unless a variance from this rule will give a better road or lot plan.

3. Corner Lots. In general, corner lots should be larger than interior lots to provide for proper building setback from each street and provide a desirable building site, and to avoid obstruction of free visibility at the roadway intersection.
4. Driveway Access. Driveway access and grades shall be approved by the Town Highway Superintendent or an Engineer designated to the project by the Town.
5. Access from Private Roads. Access from private roads shall be deemed acceptable only if such roads are designed and improved in accordance with these regulations.
6. Monuments and Lot Corner Markers. Monuments and lot corner markers shall be permanent monuments meeting specifications approved by the Town Board as to size, type and installation; they shall be set at such block corners, angle points, points of curves in streets and other points as the Town Highway Superintendent or an Engineer designated to the project by the Town may require; and their location shall be shown on the Subdivision Plat.

I. Drainage Improvements:

1. Stormwater Run-off. All subdivisions are subject to all New York State and local laws governing stormwater runoff, including NYSDEC's "SPEDES General Permit for Storm Water Discharge from Construction Activity" Permit.
2. Land subject to Flooding. Land subject to flooding shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation, or improved in a manner satisfactory to the Planning Board to remedy the hazardous conditions.

J. Parks, Open Spaces, and Natural Features:

1. Open Space to Be Shown on Plat. Where a proposed park, playground, or open space shown on the Official Map is located in whole or in part in a subdivision, the Planning Board shall require that such area or areas be shown on the plat in accordance with the requirements specified in Section 15.06, C, and Section 15.08, A hereof. Such area or areas may be dedicated to the own by the applicant if the Town Board approves such dedication.
2. Parks and Playgrounds not shown on Town Plans. The Planning Board shall require that a plat show sites of a character, extent, and location suitable for the development of a park, playground, or other recreation purpose. The Planning Board may require that the developer satisfactorily grade any such recreation areas shown on the plat. The Board shall require that not less than two (2) acres of recreation space be provided for every fifty (50) dwelling units, or fraction thereof, shown on the plat. However, in no case shall the Board require more than ten (10) percent of the total area to be set aside in the subdivision. Such area or areas may be dedicated to the Town by the applicant if the Town Board approves such dedication.
3. Information to be Submitted. In the event that an area to be used for a park or playground is required to be so shown, the applicant shall, prior to final approval, submit to the Planning Board at least nine (9) copies printed full size, one (1) copy printed on 11"x17" paper, and one digital copy in .pdf format on a CD or other acceptable device, showing, at a scale not smaller than 1:300, such area and the following features thereof:
 - a. The boundaries of the area, giving metes and bounds of all straight lines, radii, lengths, central angles and tangent distances of all curves.
 - b. Existing features such as brooks, ponds, clusters of trees, rock outcrops and structures.
 - c. Existing, and, if applicable, proposed changes in grade and contours of the area and of areas immediately adjacent.

- K. Reserve Strips. Reserve strips of land which might be used to control access from a proposed subdivision to any neighboring property, or to any land within the subdivision itself, shall be prohibited.
- L. Preservation of Natural Features. Wherever practical, natural features of the property being subdivided shall be preserved.
 - 1. To the fullest extent practicable, all existing trees and shrubbery shall be preserved by the applicant. The subdivision should be designed with consideration being given to the preservation of natural features. Precautions shall be taken during the process of grading the lots and roads.
 - 2. Where any land other than that included in public rights-of-way is to be dedicated to the public use, the developer shall not remove any trees from the site without written Town Planning Board approval.
 - 3. Where a subdivision is traversed by natural surface water, the boundaries and alignment of the body of water shall be preserved unless the Planning Board finds that a change would be ecologically sound and would enhance the development and beauty of the project. All proposed changes in the boundaries of bodies of water shall be designed and approved in accordance with Article 15 of the New York State Environmental Conservation Law.
 - 4. Every effort should be taken by the applicant in designing a project to preserve unique physical features, such as historic landmarks and sites, rock outcroppings, hilltop lookout, desirable natural contours, and similar natural features.

Section 15.18 - Waiver of Certain Improvements

- A. Where the Planning Board finds that, due to special circumstances of a particular plat, the provision of certain required improvements is not requisite to the interest of the public health, safety, and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, the Board may waive such requirements subject to appropriate conditions, provided that such waiver will not have the effect of nullifying the intent and purpose of the Official Map, the Town of Throop Comprehensive Plan, or the Zoning Law.
- B. In granting waivers, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so waived.

Article XVI. Administration

Section 16.01 - Conformance Required

- A. No building or land shall be used or occupied, and no building or part thereof shall be erected, moved, or altered except in conformity with the regulations herein set forth for the district in which it is located.

Section 16.02 - Code Enforcement Officer Powers and Duties

- A. The provisions of this Law shall be administered and enforced by the Code Enforcement Officer who shall be appointed by the Town Board. The Code Enforcement Officer shall have the duty and power to:
1. Receive and examine all applications for Zoning and Building Permits for compliance with this Law, the Town of Throop Flood Hazard Regulations, and the New York State Uniform Fire Prevention and Building Code.
 2. Receive and refer applications for Special Use Permits, Site Plans, and Subdivisions to the Planning Board for their review and approval and when deemed advisable by the Code Enforcement Officer.
 3. Issue zoning permits, building permits, Certificates of Compliance, and certification of occupancy only when there is compliance with the provisions of this Law and with other Town Laws including compliance with an approved site plan, the Town of Throop Flood Hazard Regulations, and/or the New York State Uniform Fire Prevention and Building Code provided, however, the issuance of a Zoning Permit shall not be deemed a waiver of the requirements of any Town Law.
 4. Following refusal of a permit, to receive applications for appeals from alleged error of the Code Enforcement Officer and variances and forward these applications to the Board of Appeals for action thereon.
 5. Conduct inspections and surveys to determine compliance or noncompliance with the terms of this Law.
 6. Issue stop, cease, and desist orders, and order in writing correction of all conditions found to be in violation of the provisions of this Law, the Town of Throop Flood Hazard Regulations, or the New York State Uniform Fire Prevention and Building Code. Such written orders shall be served personally or by certified mail upon persons, firms, or corporations deemed by the Code Enforcement Officer to be violating the terms of this Law. It shall be unlawful for any person to violate any such order lawfully issued by the Code Enforcement Officer, and any person violating any such order shall be guilty of a violation of this Law.
 7. With the approval of the Town Board, or when directed by them, institute in the name of the Town any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use; to restrain, correct, or abate such violation, so as to prevent the occupancy of or use of any building, structure or land, or to prevent any illegal act, conduct, business, or use in or about such premises.
 8. Receive, review, and take action on Zoning Law violation complaints submitted by residents; business owners or employees; or the Town Board, Planning Board, or Zoning Board of Appeals. All complaints shall be submitted in writing on the form provided by the Code Enforcement Officer available at Town Hall or on the Town's website.
 9. Revoke by order, a zoning or building permit issued under a mistake of fact or contrary to the provisions of this Law, the Town of Throop Flood Hazard Regulations, or the New York State Uniform Fire Prevention and Building Code.

10. Maintain a map showing the current zoning classification of all lands within the Town.
11. Conduct inspections in response to bona fide complaints regarding conditions or activities allegedly failing to comply with this Law, the Town of Throop Flood Hazard Regulations, or the New York State Uniform Fire Prevention and Building Code.
12. Keep records of the activities specified in subdivisions (1) through (11) of this section and of fees charged and collected.
13. Upon the request of the Town Board, the Planning Board or the Zoning Board of Appeals, shall present to such bodies facts, records, or reports which they may request to assist them in making decisions.
14. The Code Enforcement Officer shall submit on an annual basis to the Town Clerk proof of completion of In-Service training hours as required by New York State Department of State Law for code enforcement officials.

Section 16.03 - Zoning Permits and Building Permits

- A. No structure shall be erected, constructed, extended, or moved and no land use or building occupancy change shall occur until a Zoning Permit and a Building Permit have been secured from the Code Enforcement Officer. Upon completion or changes in use or construction, reconstruction, extension, or moving of structures, the applicant shall notify the Code Enforcement Officer of such completion.
- B. No permit shall be considered as complete or as permanently effective until the Code Enforcement Officer has noted on the permit that the work or occupancy and use has been inspected and approved as being in conformity with the provisions of this Law, the Town of Throop Flood Hazard Regulations, or the New York State Uniform Fire Prevention and Building Code.
- C. Building permits shall be required for any work which must conform to the New York State Uniform Fire Prevention and Building Code. The application for a building permit shall provide sufficient information that the intended work meets the requirements of the New York State Uniform Fire Prevention and Building Code.
- D. Exemptions. Zoning Permits and Building Permits shall not be required for general maintenance work which does not affect structural features, painting, clearing woodlands, tilling the soil, raising animals in the Agricultural Zoning District, constructing fences, terraces, landscaping, and small storage sheds one hundred and forty-four (144) square feet or less, steps, and other similar features. However, all such activities shall conform to the requirements of this Law, the Town of Throop Flood Hazard Regulations, and the New York State Uniform Fire Prevention and Building Code. Alterations to existing buildings are exempt, provided that they cost **less than ten thousand dollars (\$10,000)**, do not affect structural features, fire safety features such as smoke detectors, sprinklers, required fire separations, exits, installation or extension of electrical systems, and do not include the installation of solid fuel-burning heating appliances and associated chimneys and flues.
- E. Zoning Permits and Building Permits shall be issued with a one (1) year life, provided, however, that if the work is not commenced within ninety (90) days after the issuance of the Zoning Permit or Building Permit, the permit shall automatically expire and a new permit shall be required before such work or change in uses commences.
- F. Application Requirements.
 1. All applications for Zoning Permits and Building Permits shall be made in writing by the owner or authorized agent of the owner on a form supplied by the Town, and shall be filed by the Code Enforcement Officer in the Office of the Town Clerk. The applicant shall:
 - a. Include a statement as to the existing and proposed use of the building or land.

- b. Include a site layout drawn to scale showing the location, dimensions, and height of proposed buildings, structures, or uses and any existing buildings in relation to property and street lines.
 - c. Include the number, location, and design of parking spaces and loading spaces if applicable.
 - d. Include the size, dimensions, location, and methods of illumination for signs, if applicable.
 - e. Include information regarding the production of noise, smoke, dust, noxious matter, heat, glare, vibration.
 - f. Include any additional plans and information reasonably necessary for the Code Enforcement Officer to ascertain whether the proposed use, change in use, erection, alteration, or addition complies with the provisions of this Law.
 - g. If the application is a corporation, include names and addresses of all corporate officers, together with a certification that the corporation is in good standing with New York State.
2. A permit for any new use or construction which will involve the on-site disposal of sewage or waste, or a change in use or an alteration which will result in an increase in the number of bedrooms in a dwelling unit or an increased volume of sewage or waste to be disposed of on the site, or which will require a new or modified water supply, shall not be issued until a certificate of approval has been issued by the Cayuga County Health Department.

G. Issuance of Permits.

1. Zoning Permits and Building Permits shall be granted or refused within fifteen (15) business days after the completed written application has been filed with the Code Enforcement Officer except as provided elsewhere in this Zoning Law. The completeness of the application shall be determined by the Code Enforcement Officer.
2. It shall be the responsibility of the applicant to notify the Code Enforcement Officer when it is time to make inspections or when a project is complete.
3. All applications with accompanying plans and documents shall become, and be preserved as, a public record, subject to disposition of the Town Board.
4. Zoning Permits and Building Permits shall become effective when the Code Enforcement Officer has filed written approval of the permit application in the office of the Town Clerk.

H. Inspections shall be required on all construction that requires a Certificate of Occupancy or Certificate of Compliance. These inspections will be done at such times during the course of construction to permit the observation of the foundation, structural elements, electrical systems, plumbing systems, heating, ventilation and air conditioning systems, fire protection and detection systems, and exit features.

Section 16.04 - Special Provisions for Issuance of Permits in Flood Hazard Areas

- A. When reviewing applications for Zoning Permits in areas of any district designated as flood hazard areas by the National Flood Insurance Program, the Code Enforcement Officer shall, in addition to the regular duties, act as the Floodplain Administrator, and determine if the proposed development is consistent with the need to minimize flood damage.
- B. The Code Enforcement Officer, in reviewing all applications for construction in flood hazard locations within the Town, shall require that any such proposed construction shall:
 1. Be designed and anchored to prevent the flotation, collapse, or lateral movement of the structure or portions of the structure due to flooding.

2. Use construction materials and utility equipment that are resistant to flood damage.
3. Use construction methods and practices that will minimize flood damage.
4. Provide adequate drainage in order to reduce exposure to flood hazard.
5. Locate public utilities and facilities, including sewer, gas, electrical, and water systems, on the site in such a manner as to be elevated and constructed to minimize or eliminate flood damage.
6. Provide a topographic survey showing the proposed structures and their elevations.

Section 16.05 - Certification of Occupancy

- A. 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 or Certificate of Compliance has been issued by the Code Enforcement Officer stating that the building(s) or proposed use thereof complies with the provisions of this Law and the New York State Uniform Fire Prevention and Building Code.
 1. Certificate of Occupancy or Certificate of Compliance shall be required for all work which a building permit is required to be issued and for all buildings which are converted from one general occupancy classification to another as defined in the New York State Uniform Fire Prevention and Building Code.
 2. Certificate of Occupancy or Compliance shall not be issued until all inspections have been made and the construction or change of use meets this Law, the New York State Uniform Fire Prevention and Building Code and all County, State, and Federal regulations.

Section 16.06 - Fees

- A. The applicant, at the time of application for a Zoning Permit, shall pay to the appropriate Town Official the fee for said permit as determined by the official fee schedule for the Town of Throop as established by the Town Board by resolution. The Town Board may, from time to time, amend the fee schedule, by a resolution of such Board. All fees are non-refundable.

Section 16.07 - Violations

- A. In the case that any building or structure is erected, constructed, reconstructed, altered, or converted, or any building, structure; or land is used in violation of this Law, or of any other local law, ordinance or other regulation made under authority conferred thereby, the proper local authorities of this town, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct business or use in or about such premises; and upon the failure or refusal of the proper local officer, board, or body of the town to institute any appropriate action or proceeding for a period of ten (10) business days after written request by a resident taxpayer of the town so to proceed, any three (3) taxpayers of the town residing in the district wherein such violation exists, who are jointly or severally aggrieved by such violation, may institute such appropriate action or proceeding in a like manner as such local officer, board or body of the Town is authorized to do.
- B. Whenever a violation occurs, any person may file a complaint in regard thereto. Any such complaint must be in writing and shall be filed with the Code Enforcement Officer who shall record such complaints and immediately investigate and report thereon to the Town Board.

Section 16.08 - Fines and Penalties

- A. For any and every violation of the provisions of this Law, the following shall be liable, upon conviction thereof, to a fine or penalty not to exceed three hundred and fifty dollars (\$350.00) or imprisonment for a period not exceeding six (6) months or by both such fine and imprisonment. For

conviction of a second offense both of which were committed within a period of five years, the following shall be liable, upon conviction thereof, to a fine or penalty not less than three hundred fifty dollars (\$350.00) nor more than seven hundred dollars (\$700.00) or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, the following shall be liable, upon conviction thereof, to a fine or penalty not less than seven hundred dollars (\$700.00) nor more than one thousand dollars (\$1,000.00) or imprisonment for a period not to exceed six months, or both. Each week continued violation shall constitute a separate additional violation:

1. The owner, general agent, or contractor of a building or premises where such violation has been committed or shall exist;
2. The owner, general agent, contractor, lessee, or tenant of any part of a building or premises in which part such violations have been committed or shall exist;
3. The general agent, architect, building contractor, or any other person who knowingly commits, takes part, or assists in any such violation, or who maintains any building or premises in which any such violation shall exist.

Article XVII. Boards

Section 17.01 - Planning Board

A. Establishment of a Planning Board.

1. The Town Board authorizes the creation of a five (5) member Planning Board pursuant to §271 of the New York State Town Law. The members of the Planning Board shall be appointed by the Town Board for terms of five (5) years. Terms of all Planning Board members shall be staggered as required by law. The Town Board shall also appoint the Chairperson of the Planning Board or, on failure to do so, the Planning Board shall elect a Chairperson from its own members.
2. Two (2) alternate members of the Planning Board may be appointed by the Town Board for terms of five (5) years. All provisions of state law relating to Planning Board member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of any local law or ordinance relating to training, continuing education, compensation, and attendance shall also apply to the alternate members of the Planning Board.
3. The Chairperson of the Planning Board may designate one or more alternate members of the Planning Board to serve when necessary, and only so long as necessary, to obtain or maintain a quorum of such Board or when a member of the Planning Board is unable to participate due to a conflict of interest. Such designation and its expiration shall be entered into the minutes of the Planning Board. When so designated, the alternate member of the Planning Board shall possess all the powers and responsibilities of a member of such Board.

B. Removal of Members.

1. The Town Board shall have the power to remove, after public hearing, any member of the Planning Board for cause. Any Planning Board member may be removed for noncompliance with minimum requirements relating to attendance and training as established by the Town Board by local law or ordinance.

C. Rules, expenses, and required training.

1. The Planning Board in consultation with the Town Board shall from time to time, establish written rules and procedures for the management of applications brought before the Board and detailing the necessary information required with such application. The Planning Board may also adopt rules or bylaws for its operations, and may amend such rules and bylaws from time to time as deemed appropriate and necessary by the Planning Board.
2. The Town Board shall provide an appropriation to the Planning Board to cover necessary expenses, including the means for the Planning Board to maintain a written record of its meetings and public hearings.
3. The Town Board shall require Planning Board members to complete training and continuing education courses in accordance with any local requirements for the training of such members and may reimburse Planning Board members for appropriate expenses incurred in obtaining such training or continuing education. Planning Board members shall provide proof of completion of required training to the Town Clerk on an annual basis.

D. Powers and Duties. The duties of the Planning Board are to:

1. Prepare, review and/or recommend revisions to the Comprehensive Plan for the development of the Town as provided under §271 of New York State Town Law and/or Town Board resolution.

2. Review and comment on all proposed zoning amendments before referral to the County Planning Board.
3. Conduct site plan review as authorized by §274-a of New York State Town Law and prescribed in Article VI of this Law.
4. Review and approve Special Use Permits as authorized by §274-b of New York State Town Law and prescribed in Article VII of this Law.
5. Review and approve the subdivision of parcels as authorized by §§276, 277, 278, 279, 280 and 280-a of the New York State Town Law and prescribed in the Town of Throop Subdivision Regulations.
6. Render assistance to the Zoning Board of Appeals at its request.
7. Research and report on any matter referred to it by the Town Board.
8. Make investigations, maps, reports, and recommendations in any matter related to planning and development as it seems desirable providing expenditures of the Planning Board do not exceed the budget appropriations for the Planning Board.
9. All such powers and duties as are conferred upon the Planning Board and subject to the limitations set forth in §§271, 272-a, 273, 274-a, 276, 277 and 278 of the New York State Town Law, as the same may be amended, modified, or changed from time to time, or any sections subsequently adopted pertaining to town planning boards.

E. Meetings.

1. The Planning Board shall hold regularly scheduled monthly meetings, provided there are meeting agenda items for Planning Board consideration, and the Board may hold special meetings, from time to time as needed, at the call of the Chairperson or at the request of three (3) or more members.
2. The Planning Board may hold a public hearing on any matter before it if the Board finds that public comments will facilitate its review. The Board shall conduct the public hearing pursuant to its Rules of Procedure and applicable provisions of Law. If applicable and to the extent practical, the public hearing on the proposal may be held concurrently with any public hearings that may be held pursuant to SEQR. The public hearing shall be closed when the Board is satisfied that it has received adequate public input and when comments from advisory or mandatory referrals have been received, unless the allotted review time for the referrals has expired.
3. The presence of three (3) members of the Planning Board shall constitute a quorum which shall be necessary to act on any application for a site plan review, special use permit, or subdivision; and to decide upon any other matter brought before the Board unless otherwise stipulated in this Law.
4. All votes of the Planning Board shall be taken by roll call. Planning Board decisions on matters not referred to the County Planning Board shall be by simple majority vote (three) of the full membership. On a matter referred to the County Planning Board, voting shall be in accordance with Section 17.03 herein.
5. In accordance with §74, Subdivision 2, of Article 4 of the Public Officers Law, a member of the Planning Board having a conflict of interest shall abstain from any discussion or voting on that matter.
6. The Planning Board may request and obtain any advice or opinions on the law relating to any matter before the Board from the Town Attorney, and require the Town Attorney to attend its meetings.

7. The Planning Board may require the Code Enforcement Officer to attend its meetings to present any facts relating to any matter before the Board.
8. All meetings of the Planning Board shall be open to the public.
9. The Planning Board shall make a factual record of all its proceedings, including public hearings, deliberations, voting and decisions. The factual record shall be taken by the Clerk of the Planning Board.

F. Records and Decisions.

1. No application shall be acted upon in any manner until a complete application shall have been received. The completeness of the application shall be determined by the Planning Board Chairperson or someone that he/she may designate for such task. If the task of determining completeness of an application before the Planning Board is delegated by the Chair, said decision shall be made known to the Town Board, Code Enforcement Officer, and Clerk of the Planning Board.
2. Minutes shall be recorded of all meetings and shall contain relevant information of every action considered together with the votes of each member and final decision of each proposed action. All decisions of the Planning Board shall be permanently filed within five (5) business days in the office of the Town Clerk. The Planning Board shall notify the Town Board and the Code Enforcement Officer of all decisions and resolutions.

Section 17.02 - Zoning Board of Appeals

A. Establishment of a Zoning Board of Appeals.

1. The Town Board authorizes the appointment of a five (5) member Zoning Board of Appeals pursuant to §267 of New York State Town Law. The members of the Zoning Board of Appeals shall be appointed by the Town Board for terms of five (5) years. Terms of all Zoning Board of Appeals members shall be staggered as required by law. If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint the new member for the unexpired term. The Town Board shall also appoint the Chairperson of the Zoning Board of Appeals. In the absence of a Chairperson, the Zoning Board of Appeals may designate a member to serve as Acting Chairperson.
2. Two (2) alternate members of the Zoning Board of Appeals may be appointed by the Town Board for terms of five (5) years. All provisions of state law relating to Zoning Board of Appeals member eligibility, vacancy in office, removal, compatibility in office and service on other boards, as well as any provisions of any local law or ordinance relating to training, continuing education, compensation, and attendance shall also apply to the alternate members of the Zoning Board of Appeals.
3. The Chairperson of the Zoning Board of Appeals may designate an alternate member of the Zoning Board of Appeals to serve when necessary, and only so long as necessary, to obtain or maintain a quorum of such Board or when a member is unable to participate due to a conflict of interest. Such designation and its expiration shall be entered into the minutes of the Zoning Board of Appeals. When so designated, the alternate member of the Zoning Board of Appeals shall possess all the powers and responsibilities of a member of such Board.

B. Removal of Members.

1. The Town Board shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be removed for noncompliance with minimum requirements relating to attendance and training as established by the Town Board by local law or ordinance.

C. Rules, expenses, and required training.

1. The Zoning Board of Appeals in consultation with the Town Board shall from time to time, establish written rules and procedures for the management of applications brought before the Board and detailing the necessary information required with such application. The Zoning Board of Appeals may also adopt rules or bylaws for its operations, and may amend such rules and bylaws from time to time as deemed appropriate and necessary by the Zoning Board of Appeals.
2. The Town Board shall provide an appropriation to the Zoning Board of Appeals to cover necessary expenses, including the means for the Zoning Board of Appeals to maintain a written record of its meetings and public hearings.
3. The Town Board shall require Zoning Board of Appeals members to complete training and continuing education courses in accordance with any local requirements for the training of such members and may reimburse Zoning Board of Appeals members for appropriate expenses incurred in obtaining such training or continuing education. Zoning Board of Appeals members shall provide proof of completion of required training to the Town Clerk on an annual basis.

D. Powers and Duties.

1. The Zoning Board of Appeals shall have appellate jurisdiction with regard to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the Code Enforcement Officer. The Zoning Board of Appeals shall decide any question involving the interpretation of such provisions as more fully described in this section. Where a proposed site plan, special use permit, or subdivision contains one or more dimensional features which do not comply with the Town's Zoning Law, application may be made for an area variance without the necessity of an order, requirement, decision, interpretation, or determination by the Code Enforcement Officer. The duties of the Zoning Board of Appeals are to:
 - a. Reversing or affirming orders, requirements, decisions, interpretations, and determinations. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify any order, requirement, decision, interpretation, or determination appealed from, and shall make such order, requirement, decision, interpretation, or determination as in its opinion ought to have been made in the matter by the Code Enforcement Officer and to that end shall have all the powers of the Code Enforcement Officer.
 - b. Granting area or dimensional variances.
 - i. The Zoning Board of Appeals shall have the power, on appeal from a decision or determination of the Code Enforcement Officer, to grant area variances as defined herein. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant. In making such determination and in accordance with §267-b of New York State Town Law, 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 the granting of the area variance;
 - (B) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - (C) Whether the requested area variance is substantial;

- (D) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (E) Whether the alleged difficulty was self-created.
 - ii. The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
 - iii. The Zoning Board of Appeals shall, in the granting of an area variance, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such condition shall be consistent with the spirit and intent of this Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
- c. Granting use variances.
 - i. The Zoning Board of Appeals, on appeal from the decision or determination of the Code Enforcement Officer, shall have the power to grant use variances as defined herein.
 - ii. No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship and in accordance with §267-b of New York State Town Law, 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) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - (C) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - (D) The alleged hardship has not been self-created.
 - iii. The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. If the review of an agricultural data statement was required pursuant to Article 25-AA, §305-a, of the New York State Agriculture and Markets Law, the Zoning Board of Appeals shall evaluate and consider the agricultural data statement in its review of the possible impacts on the functioning of farm operations in the Cayuga County Agricultural District.
 - iv. The Zoning Board of Appeals shall, in the granting of a use variance, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and/or the period of time such variance shall be in effect. Such condition shall be consistent with the spirit and intent of the zoning regulations contained in this Law and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

2. Procedures for processing zoning appeal.
 - a. Each order, requirement, decision, interpretation, or determination of the Code Enforcement Officer shall be filed in the office of the Town Clerk within five (5) business days from the day it is rendered. An appeal shall be taken within sixty-two (62) calendar days after the filing of any order, requirement, decisions interpretation, or determination of the Code Enforcement Officer and shall be filed at least ten (10) business days prior to the scheduled meeting of the Zoning Board of Appeals. All appeals shall be in writing, on forms established by the Zoning Board of Appeals, which shall be available from the Code Enforcement Officer and shall specify the grounds for the appeal and the relief sought. Any appeal for an area variance shall be accompanied by a site plan prepared in accordance with the site plan requirements specified in Article VI, Section 6.02 B and Section 6.03 of this Law. The Zoning Board of Appeals shall determine all information required on the site plan at a regularly scheduled Zoning Board of Appeals meeting, by determining which requirements specified in Section 6.02B and/or Section 6.03 are relevant to the appeal and are necessary to properly review the case. Any appeal for a use variance for property within the Cayuga County Agricultural District containing a farm operation or for property with boundaries within five hundred (500) feet of a farm operation located in the Cayuga County Agricultural District, shall include an agricultural data statement with the application. If an agricultural data statement is required, the Zoning Board of Appeals shall mail, via registered mail, written notice of such application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location, and may be sent in conjunction with any other notice required by state or local law, ordinance, rule, or regulation for the said project. The cost of mailing said notice shall be borne by the applicant.
 - b. Every appeal shall refer to the specific provision of the Zoning Article(s) involved and establish the details of why the order, requirement, decision, interpretation and/or determination of the Code Enforcement Officer should be reversed or why a variance should be granted and shall address the considerations described in Section 17.02, D, 1 herein if the appeal is for a variance.
 - c. Fees. Appeals and applications before the Board of Appeals shall be accompanied by a payment to the Town in accordance with a Fee Schedule adopted by resolution of the Town Board.
 - d. Upon receipt of the completed appeal form and the agricultural data statement, if required, the Zoning Board of Appeals shall:
 - i. Schedule a public hearing.
 - ii. Arrange for publication of notice of the public hearing as described in Section 17.02, D, 3 herein.
 - iii. Refer the application to the County Planning Board in accord with Article 12-B, §239-m, of the New York State General Municipal Law, if the subject property is within five hundred (500) feet of the boundary of any county, town, village; existing or proposed county or state park; any right-of-way of any county or state road or parkway; any stream or canal owned by the county; and existing or proposed county- or state-owned land on which a public building or institution is situated; and the boundary of a farm operation located in the Cayuga County Agricultural District.
 - iv. Determine whether a draft environmental impact statement should be required.

- e. Within sixty two (62) calendar days following the public hearing, the Zoning Board of Appeals shall render a decision or, if the parties have agreed to a time extension, within such time extension.
3. Public hearing and Zoning Board of Appeals decision.
 - a. Public hearings shall be scheduled within sixty two (62) calendar days from the date that the Zoning Board of Appeals receives the appeal. Any such appeal shall be deemed received when the appeal is first presented at a duly called meeting of the Zoning Board of Appeals. Notice of the public hearing shall be published in the Town's official newspaper and posted in any other location/media that the Town deems appropriate and necessary at least ten (10) business days prior to the date fixed for the public hearing. Such notice shall briefly describe the nature of the appeal and the time and place of the hearing. The cost of publication of the public hearing notice shall be borne by the appealing party. If the matter has been referred to the Cayuga County Planning Board pursuant to Article 12-B, §239-m, of the New York State General Municipal Law, a notice of the public hearing shall also be mailed to the Cayuga County Planning Board at least ten (10) business days prior to such hearing along with the full statement of such action as defined in Article 12-B, §239-m, of the New York State General Municipal Law.
 - b. A copy of the public notice may be sent to adjoining and adjacent property owners within the Town, but failure to send such notice shall not affect the jurisdiction of the Zoning Board of Appeals or the legality of the decision of the Zoning Board of Appeals. The cost of mailing said notice shall be borne by the appealing party.
 - c. The Secretary to the Zoning Board of Appeals shall make a factual record of the public hearing. Public records shall be taken by stenographic and/or tape recorder means and shall be transcribed accurately into a narrative form which may or may not be a verbatim transcript.
 - d. The decision of the Board of Appeals shall be filed in the office of the Town Clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant. If the matter was referred to the County Planning Board, a copy of the Zoning Board of Appeals findings and decision shall be sent to the County Planning Board.

E. Meetings.

1. The Zoning Board of Appeals shall hold meetings at the call of the Chairperson or at the request of three (3) or more members, and at such other times as the Zoning Board of Appeals shall specify in its rules and procedures.
2. The presence of three (3) members shall constitute a quorum for conducting business before the Zoning Board of Appeals, including acting on a zoning appeal or deciding upon any other matter brought before the Board, unless otherwise stipulated in this Law.
3. All votes of the Zoning Board of Appeals shall be taken by roll call. Zoning Board of Appeals decisions on matters not referred to the County Planning Board shall be by simple majority vote (three) of the full membership. On a matter referred to the County Planning Board, voting shall be in accordance with Section 17.03 herein.
4. In accordance with §74, Subdivision 2, of Article 4 of the Public Officers Law, a member of the Zoning Board of Appeals having a conflict of interest shall abstain from any discussion or voting on that matter.

5. The Zoning Board of Appeals may request and obtain any advice or opinions on the law relating to any matter before the Board from the Town Attorney, and require the Town Attorney to attend its meetings.
6. The Zoning Board of Appeals may require the Code Enforcement Officer to attend its meetings to present any facts relating to any matter before the Board.
7. All meetings of the Zoning Board of Appeals shall be open to the public.
8. The Zoning Board of Appeals shall make a factual record of all its proceedings, including public hearings, deliberations, voting and decisions. The factual record shall be taken by the Secretary to the Zoning Board of Appeals.

F. Records and Decisions.

1. No application shall be acted upon in any manner until a complete application shall have been received. The completeness of the application shall be determined by the Zoning Board of Appeals Chair or someone that he/she may designate for such task. If the task of determining completeness of an application before the Zoning Board of Appeals is delegated by the Chair, said decision shall be made known to the Town Board, Code Enforcement Officer, and Town Clerk.
2. Minutes shall be recorded of all meetings and shall contain relevant information of every action considered together with the votes of each member and final decision of each proposed action. All decisions of the Zoning Board of Appeals shall be permanently filed within five (5) business days in the office of the Town Clerk. The Planning Board shall notify the Town Board, Planning Board, and the Code Enforcement Officer of all decisions and resolutions.

G. Article Seventy-Eight Proceeding- Appeal to Court

1. Any person or persons, jointly or severally aggrieved by a decision of the Board of Appeals or any officer, department, Board or Bureau of the Town, may apply to the New York State Supreme Court for review by a proceeding under Article Seventy-Eight (78) of the Civil Practice law and rules. Such proceeding shall be instituted within thirty (30) days after the filing of a decision in the Office of the Town Clerk.

Section 17.03 - Referrals to County Planning Board

- A. Proposed actions involving the adoption and/or amendment of a comprehensive plan, the adoption and/or the amendment of a zoning local law or ordinance, the approval of site plans, the issuance of special use permits, subdivision approval, and the granting of use and area variances shall be referred to the Cayuga County Planning Board, pursuant to §§239-l, 239-m, and 239-n of the General Municipal Law, if the property involved is within five hundred (500) feet of the boundary of any county, town, village; existing or proposed county or state park; any right-of-way of any county or state road or parkway; any stream or canal owned by the county; existing or proposed county- or state-owned land on which a public building or institution is situated; and the boundary of a farm operation located in the Cayuga County Agricultural District, except that the following shall be exempt from such referral in accordance with the agreement between the Cayuga County Planning Board and the Throop Town Board adopted on April 21, 2023:
1. Activities that, while within 500 feet of a state or county highway, are on a parcel that does not front on that state or county highway;
 2. Activities that, while within 500 feet of a municipal boundary, would be permitted within the area of the adjoining municipality abutting the parcel where the activity is proposed;
 3. Area variances;

4. Amendments to a local zoning law or ordinance that are intended to clarify, redefine, expand, or modify words and/or terms that do not alter the dimensional or use standards of the regulation;
 5. Amendments to a local zoning law or ordinance that are intended to address procedural or administrative matters that do not alter the dimensional or use standards of the regulation;
 6. Amendments to a local zoning law or ordinance that are intended to reduce the type or number of uses permitted within a particular zoning district;
 7. Amendments to a local zoning law or ordinance that are intended to reduce the intensity and/or density of development permitted within a particular zoning district;
 8. Any subdivision of land not required to be submitted to the Cayuga County Health Department for review under the definition of a subdivision set forth in Section 1115 of the Public Health Law of the State of New York;
 9. Any activity subject to review by a local agency employing a municipal planner on a full-time basis who will advise the referring agency concerning the referred matter.
- B. Effect of County Planning Board review:
1. If the Cayuga County Planning Board recommends the approval of a matter referred to it, the local board's decision is governed by a simple majority vote.
 2. If the Cayuga County Planning Board recommends approval subject to stated conditions or modifications, or recommends disapproval, the local board may override the County Planning Board recommendation only by a majority plus one vote.
 3. If the Cayuga County Planning Board fails to make a recommendation within thirty (30) calendar days following the date on which the matter was referred to the Cayuga County Planning Board, the local board may take action on the matter after the expiration of such thirty-day period, and the local board's decision is governed by a simple majority vote.
- C. Report on final local action. Within thirty (30) calendar days following a local board's final decision on a matter that was referred to the Cayuga County Planning Board, the local board shall provide a copy of its final decision to the County Planning Board. If the local board acted contrary to the Cayuga County Planning Board's recommendation, the local board shall also provide to the Cayuga County Planning Board its reasons for such decision.

Section 17.04 - Agricultural Data Statements

- A. Applicability. Any application for a special use permit, site plan approval, use variance or subdivision review and approval by the Town Board, Planning Board, or Zoning Board of Appeals that would occur on property within the Cayuga County Agricultural District containing a farm operation or on property with boundaries within five hundred (500) feet of a farm operation located in the Cayuga County Agricultural District, shall include an agricultural data statement. The Town Board, Planning Board, or Zoning Board of Appeals shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within the Cayuga County Agricultural District. The information required by an agricultural data statement may be included as part of any other application form required by local law, ordinance or regulation.
- B. Notice to landowners. Upon the receipt of such application by the Town Board, Planning Board, or Zoning Board of Appeals, the clerk of such board shall mail written notice of such application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location and may be sent in conjunction with any other notice required by state or local law, ordinance, rule, or regulation for said project. The cost of mailing said notice shall be borne by the applicant.

- C. Contents of an agricultural data statement. The agricultural data statement shall including the following information:
1. The name and address of the applicant;
 2. A description of the proposed project and its location;
 3. The name and address of any owner of land within the Cayuga County Agricultural District, which land contains farm operations and is located within five hundred (500) feet of the boundary of the property upon which the project is proposed; and
 4. A Tax Map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.
- D. Notice to county, regional, or metropolitan planning agency: The Clerk of the Town Board, Planning Board, or Zoning Board of Appeals shall refer all applications requiring an agricultural data statement to the County Planning Board.

Section 17.05 - Fee Reimbursement

- A. In connection with any application for a Special Use Permit, Site Plan approval, Zoning Amendment, or Variance, the reviewing board may require the applicant to pay in advance into an escrow fund established to cover the reasonable costs of reviewing such application. Such costs may include staff costs or consultant fees covering planning, engineering, environmental analysis, wetland delineation, legal review, and other technical services required for a proper and thorough professional review of the application. No permit shall be issued until all costs have been paid. The Town shall account for the expenditure of all such funds and shall promptly refund any unexpended funds within twenty (20) business days of final action by the reviewing board.

Article XVIII. Amendments, Remedies

Section 18.01 - Procedure

- A. The Town Board may from time to time, on its own motion, or on petition, or on recommendation of the Planning Board, the Zoning Board of Appeals, or a member of the public, amend, supplement or repeal the regulations and provisions of this Law including changing the Zoning District classification of a particular parcel of land, often referred to as a re-zoning, after public notice and hearing.
- B. Every such proposed amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for. The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendments and cause notice to be given as follows:
1. By publishing a notice of the time and place of the hearing at least ten (10) business days prior to the date of such hearing in a paper of general circulation in the Town.
 2. A written notice of any proposed change or amendment affecting land included in such proposed change or of that immediately adjacent, extending one hundred (100) feet therefrom, or of that directly opposite thereto, extending one hundred (100) feet from the street frontage of such opposite land at least ten (10) business days prior to the date of such public hearing.
 3. A written notice of any proposed change or amendment affecting property within the protectively zoned area of a housing project authorized under the Public Housing Law of New York State, as such area is shown on an approved zoning map filed with the Code Enforcement Officer, shall be given to the housing authority erecting or owning the project and to the government providing financial aid for assistance thereto at least ten (10) business days prior to the date of such hearing.
 4. A written notice of any proposed change or amendment affecting property within five hundred (500) feet of the boundaries of any state park or parkway shall be given to the Regional State Park Commissioner having jurisdiction over such state park or parkway at least ten (10) business days prior to the date of such public hearing.
 5. A written notice of any proposed change or amendment affecting property within five hundred (500) feet of the boundaries of any city, village, town, or county shall be given to the Clerk of such municipality and to the Clerk of the County Legislature at least ten (10) business days prior to the date of such hearing.
 6. In case, however, of a protest against such change signed by the owners of twenty percent (20%) or more of the area of land included in such proposed change or of that immediately adjacent, extending one hundred (100) feet therefrom, or of that directly opposite thereto, extending one hundred (100) feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least four (4) members of the Town Board.

Article XIX. Severability, Repealer, and Effective Date

Section 19.01 - Severability

A. It is hereby declared to be the legislative intent that:

1. Should the courts declare any provision of this law to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this law shall continue to be separately and fully effective.
2. Should the court find the application of any provision or provisions of this Law to any lot, building or other structure, or tract of land, to be invalid or ineffective, in whole or in part, the effect of such decision shall be limited to the person, property or situation immediately involved in the controversy, and the application of any such provision to other person, property or situations shall not be affected.

Section 19.02 - Repealer

- A. Local Law 1 of 2012 entitled and cited as “Town of Throop Zoning Law” and all supplements and amendments thereto, are hereby repealed. Provided, however, if the present Law is held to be ineffective or invalid by reason or some irregularity in or impediment to its passage, this repealer shall also be ineffective, it being the legislative intention that if the present enactment shall be ineffective as aforesaid, then in that event, Local Law 1 of 2012 entitled and cited as the “Town of Throop Zoning Law” together with its supplements and amendments, would necessarily remain in full force and effect.
- B. Local Law 3 of 2018 entitled “Solar Energy Law of the Town of Throop” and all supplements and amendments thereto, are hereby repealed.
- C. If this Law entitled “Town of Throop Zoning Law” adopted and effective as noted in Section 19.03 herein, is held to be ineffective or invalid by reason or some irregularity in or impediment to its passage, this repealer shall also be ineffective, it being the legislative intention that if the present enactment shall be ineffective as aforesaid, then in that event the laws listed above together with their supplements and amendments, would necessarily remain in full force and effect until this Law is found to be effective and valid.

Section 19.03 - Effective Date

- A. Be it enacted this 26th day of July, 2023 by the Town Board of the Town of Throop in Cayuga County, New York that this Law shall be effective immediately.

ERRATA - Wherever in this enactment words other than "Zoning Law" have been used and referring to this enactment, those words shall mean "Zoning Law".

Appendix I. Zoning Map

