

ARTICLE 5

SUPPLEMENTARY REGULATIONS APPLICABLE TO PARTICULAR USES

§ 5.1 Recreational Vehicles, Campgrounds, and RV Parks

1. License Requirement: No person, partnership, association, limited liability or other company or corporation, being the owner, user, operator, or occupant of any land within the Town of Deerpark, shall use or allow the use of such land for a campground or RV park or any other form of camping regulated herein unless a license has been obtained as herein provided.
 - a. The Town Clerk, after review by the **Zoning Officer and/or** Building Inspector, shall issue a license after approval of the application by the Planning Board pursuant to Special Use procedures.
 - b. No license shall be issued until the Building Inspector has received a written application from the applicant, the required fee, and evidence of approval from the New York State Department of Health.
 - c. The license may be transferred to a new owner of a campground or RV park provided that an application for transfer of the existing license is made and the prospective new owner/operator shall document that all of the requirements of this law are met.
 - d. Any person holding a license for a campground or RV park who desires to add additional lots or spaces to such park shall file an application for a supplemental license.
 - e. All licenses issued hereunder shall be valid until **June 30** of the following **fifth (5th)** year prior to which time applicants shall request or apply for renewal of such licenses and the Building Inspector shall inspect the premises to ensure continued compliance with this law. No facility shall open for business for the new **5-year period** unless a renewal has been granted. Renewal applications shall be filed by **January 31 of the year which renewal is required.**
 - f. The applicant for any new license, renewal or transfer shall pay the Town **application**, or other, fees as may be established and modified from time to time by resolution of the Town Board.
 - g. Each application for a campground or RV park license shall be in writing, signed by the applicant and submitted in quadruplicate along with all plans required to the Building Inspector. The Building Inspector shall promptly transmit copies of the application and plans to the Planning Board, which shall review and act upon the application pursuant to Special Use requirements. The Building Inspector, within thirty (30) days of the filing of the Planning Board action, shall issue the license provided all other requirements are met.
2. Design Standards and General Requirements:
 - a. A campground or RV park shall have a gross area of at least ten (10) contiguous acres of land in single ownership or under unified control.
 - b. All campgrounds and RV parks shall maintain front and rear yards of one-hundred (100) feet minimum, side yards of fifty (50) feet minimum, stream setbacks of one-hundred (100) feet and provide and maintain a screening strip of planted natural materials along all property boundary lines, fully complying with the landscaping standards herein. Such screening shall be a depth of not less than twenty (20) feet, and designed to effectively

Town of Deerpark Zoning Law

screen the area within a period of three (3) to five (5) years. A planting plan specifying types, size, and location of existing and proposed plant materials shall be required.

- c. Lot and Siting Requirements:
1. RV Park or campground campsites shall be at least fifty (50) feet wide and thirty-five hundred (3,500) square feet in area. Gross density, however, shall not exceed a total of six (6) campsites per acre for the development.
 2. Campground or RV park campsites shall be separate from service building structures by a minimum distance of fifty (50) feet. The minimum spacing between campsite pads shall be eighty (80) feet (extremity to extremity).
- d. At least one (1) off-street parking space shall be provided for each site, in addition to the site for placement of the recreational vehicle or tent. Such space shall be a minimum of twelve (12) by thirty (30) feet in dimensions.
- e. Recreational land development streets shall be improved to a twelve (12) feet width for one-way traffic and twenty (20) feet width for two-way traffic to accommodate regular vehicular traffic. Grades shall not exceed twelve percent (12%).
- f. No individual on-site sewerage or water supply shall be permitted and all systems for the common use of campground occupants shall fully comply, as evidenced by approved plans, with standards imposed by the New York State Departments of Conservation and Health and the Town of Deerpark Engineer. At least one (1) recreational vehicle sanitary dumping station shall be provide for every one-hundred (100) campsites or less.
- g. No permanent external appurtenance, such as expandable rooms, carports, or patios, may be attached, adjoined, or placed on the same property with any recreational vehicle parked in a campground or RV park, and the removal of wheels or placement of the unit on a foundation in such park is prohibited.
- h. A minimum of two-hundred (200) feet of frontage along a public highway shall be required. Entrances and exits to campgrounds or RV parks shall be designed for safe and convenient movement of traffic into and out of the park and to minimize friction with traffic on adjacent streets. No entrance or exit shall require a turn at an acute angle and the radii of curbs and pavements at intersections shall facilitate easy turning for vehicles with trailers attached. Every intersection of an entrance or exit with a public highway shall have at least five-hundred (500) feet of sight distance in both directions along the public highway and be located a minimum of one-hundred-fifty (15) feet from any other intersection. Two (2) accesses shall ordinarily be required.
- i. A minimum of fifty percent (50%) of the gross site area of the campground or RV park shall be set aside and developed as open space or common use recreational facilities.
- j. Parking, loading, or maneuvering incidental to parking or loading shall not be permitted on any public right-of-way. Each campground or RV park operator shall provide off-street parking and loading areas and shall be responsible for violations of these requirements.
- k. Campground or RV park campsites shall be used only for camping purposes. No improvement or living unit designed for permanent residential occupancy shall be erected or placed on any campground or RV park campsite excepting a single-family home intended for the use of an owner or resident manager. Specifically:
1. All recreational vehicles in the development shall be maintained in a transportable condition at all times and meet all requirements which may be

imposed by the State of New York. Any action toward removal of wheels or to attach the recreational vehicle to the ground for stabilization purposes is hereby prohibited.

- A. Rental dwelling units not mobile (i.e. cabins) must be approved by the Planning Board.
 - B. Any “cabin” must meet NYS Building Codes and be maintained to such standards.
 - C. Cabin units shall be connected to community water and sewer.
 - D. All rental dwelling units, including cabins, must have a valid Building Permit.
2. No campground or RV park site shall be occupied for more than four (4) consecutive months, and no campground or RV park site shall be the primary residence of the individual lot owner or any other occupant; each site shall be used and occupied (excepting for occasional guests) for camping and recreational purposes and only by a single household. All campgrounds shall close annually between December 15 and March 15. All buildings and recreational vehicles, other than the home of a resident manager or owner, shall be locked and made unavailable for occupancy during this period.
3. The Town Building Inspector may require any owner to remove a recreational vehicle from the campground for a period of seven (7) days, unless such owner can establish a prior removal or storage without occupancy within the immediately preceding six (6) months. These requirements shall be included in restrictive covenants for non-transient campgrounds or RV parks.
4. The management of every campground or RV park shall be responsible for maintaining accurate records concerning the occupancy of all campground or RV park campsites. The term “management” shall include associations of property owners when such are responsible for maintenance and operation of common facilities. The Building Inspector shall have access to, and the right to inspect, records for evidence of permanent residency. The Town Board and/or Building Inspector shall, in addition, have the authority, when any provision of this law is violated, to prohibit the occupancy of any and all campground and RV park campsites until the owners and/or management comply.
- l. No owner or occupant of any campground or RV park campsite shall permit or allow the dumping or placement of any sanitary or other waste anywhere upon any campground or RV park lot or elsewhere within the development, except in places designated therefor. No outside toilets shall be erected or maintained on any campground or RV park campsite. Sanitary facilities, including toilets, urinals, and showers, shall be provided in separate buildings located not less than one-hundred (100) feet or more than three-hundred (300) feet from each campground or RV park campsite and all State health regulations shall be fully met. **Portable temporary toilets shall not be allowed on premises without Planning Board approval for specific dates.**
 - m. All property lines within the development shall be kept free and open; and no ledges, walls or fences, except as may be required for screening or as may exist naturally, shall be permitted.
 - n. No noxious or offensive activities or nuisances shall be permitted within any campground or RV park. Such nuisances shall include, but not be limited to: (1) excessive noise; (2)

any burning which results in smoke or noxious fumes emanating beyond the property line; and (3) any other nuisance activity which would cause impacts beyond the property line. Responsibility for meeting such requirements shall extend to occupants of campground or RV park campsites as well as owners and operators. Public address systems shall not be permitted. **Music events, radios, and other sound amplifying devices shall be kept to a minimum and must meet Town noise ordinance.**

- o.** No animals shall be kept or maintained on any campground or RV park campsite except for the usual household pets which shall be kept confined **and leashed at all times. Feces must be cleaned up after.**
- p.** No person shall burn trash, **yard waste, debris,** or refuse on any campground or RV park campsite **or property. Recreational campfires shall meet campfire regulations below.** All such refuse shall be placed in closed receptacles which shall be provided by the owners of the campground or RV park campsites and must be removed at least weekly. No owner or occupant shall permit the accumulation of any refuse or junk vehicles on a campground or RV park campsite **or property. Owners must provide a location approved by the Building Inspector for garbage dumpsters and the receptacles must be animal-proof and maintained.**

Campground Regulations:

- 1.** “Don’t Move Firewood” – A new regulation is now in effect that prohibits the import of firewood into New York unless it has been treated to kill pests. The regulation also limits the transportation of untreated firewood to less than fifty (50) miles from its source.

By transporting firewood, you could be spreading diseases and invasive insects that can quickly kill large number of trees. Help STOP THE SPREAD and obey the firewood regulation:

- A.** It is best to leave all firewood at home – please do not bring it to campgrounds or parks.
- B.** Get your firewood at the campground or from a local vendor – ask for a receipt or label that has the firewood’s local source.
- C.** If you choose to transport firewood within New York State:

 - a.** It must have a receipt or label that has the firewood’s source and it must remain within fifty (50) miles of that source.
 - b.** For firewood not purchased (i.e. cut from your own property) you must have a Self-Issued Certificate of Source (pdf, 100 kb), and it must be sourced within fifty (50) miles of your destination.
 - c.** Only firewood labeled as meeting New York’s heat treatment standards to kill pests (kiln-dried) may be transported into the state and further than fifty (50) miles from the firewood’s source.

Campfires:

- 1.** Use existing campfire rings.
- 2.** Build campfires away from overhanging branches, steep slopes, rotten stumps, logs, dry grass, and leaves. Pile any extra wood away from the fire.

3. Campfires must be less than two (2) feet in height and three (3) feet in diameter. Only charcoal or untreated wood can be used as fuel. Scrape away litter, duff, and any burnable material within a ten (10) foot diameter circle. This will keep the campfire from spreading.
 4. Be sure your match is out. Hold it until it is cold.
 5. Campfires should be drowned with water prior to leaving the campsite and/or retiring for the night.
 6. Never leave a campfire unattended. Drown the fire with water. Make sure all embers, coals, and sticks are wet. Move rocks as there may be burning embers underneath.
 7. Stir the remains, add more water, and stir again. If you do not have water use dirt. Do not bury your coals as they can smolder and break out.
- q. Picnic tables, grills and similar items of personal property may be placed on a campground or RV park campsite provided they shall be maintained in good condition.
- r. Each owner shall keep drainage ditches and swales located on his campground or RV park campsite unobstructed and in good repair and shall provide for the installation of such culverts upon his campground or RV park campsite as may be reasonably required for proper drainage.
- s. No water wells shall be permitted on any individual campground or RV park campsite. The campground or RV park shall be serviced by a central or community water system capable of delivering a minimum of one-hundred (100) gallons per day per site at a minimum pressure of twenty (20) pounds per square inch at peak demand. Potable water drinking supplies shall be provided within two-hundred-fifty (250) feet of each campground or RV park campsite and be operational during any period of occupancy. One water spigot shall be provided for each ten (10) campsites without water facilities. Other water sources supplied to toilets and urinals shall not be physically connected with the drinking supply or be available for public use. Service buildings housing sanitation facilities shall be heated when the campground is occupied between November 1 and March 31 if winter camping is allowed by Special Use or ZBA, and in accordance with conditions and codes.
- t. A public phone or similar arrangement for emergency communication shall be available 24 hours per day at each rest room facility within each campground or RV park.
- u. Every campsite and structure shall be accessible by fire and emergency equipment and shall be maintained in such condition, free of obstacles to access.
- v. The operational standards contained in this section shall be incorporated in restrictive covenants attached to the deeds for campsites in non-transient campgrounds or RV parks and shall be made part of a management plan for any transient campgrounds or RV parks, which covenants and/or plan shall be approved by the Planning Board during site plan review. A plan or set of covenants which does not adequately provide for conformance with this section shall not be approved. The plan and/or covenants shall also provide the Town with the right to periodically inspect the development for continued compliance with the plan and/or covenants.
- w. Each campsite (except designated primitive tent camping area) shall be provided with 30 amp, 120 volt electrical service. Sufficient exterior illumination shall also be provided for convenience and safety. All lighting shall be shielded from the direct view of surrounding properties and streets.

- x. Campground stores are permitted to be located within the campground and may be part of the office.
 - y. All ancillary facilities such as stores, offices, pools, service buildings and the like shall be subject to site plan review and special use approval.
 - z. All campgrounds shall provide a children's playfield of at least one (1) acre in size (not including the pool if provided) with at least one (1) acre of playfield for each twenty-five (25) campsites. All pools shall be setback a minimum of two-hundred (200) feet from any exterior property line and all other recreational facilities shall be setback at least one-hundred (100) feet. Setbacks for lighted facilities shall be twice these figures. **All facilities are subject to the NYS Building Code and building permits shall be required for any new construction, repairs, or alternations.**
 - aa. **Storage on site must be approved by the Planning Board.**
3. Enforcement:
- a. The Building Inspector shall enforce all of the provisions of this Law and shall have the right, at all reasonable times, to enter and inspect any campground or RV park or other premises used as a campground or RV park or for the parking or place of recreational vehicles.
 - b. If the Building Inspector finds that a campground or RV park for which a license has been issued is not being maintained in a clean and sanitary condition or is not being operated in accordance with the provisions of this Law, he may service personally or by certified mail upon the holder of the license a written order which will require the hold of the license to correct the conditions specified in such order within ten (10) days after the service of such order. Such order may also be posted on the property if the licensee is otherwise unable to be reached.
 - c. If the holder of such license shall refuse or fail to correct the condition or conditions specified in such order, the Building Inspector may revoke such license and the holder of the license shall thereupon immediately terminate the operation of such campground or RV park and held to be in violation of this law.
 - d. If the owner or operator of such facility shall thereafter correct such condition(s) and bring the facility into compliance with this law, such owner may then apply for a new license.
 - e. None of the provisions of this law shall be applicable to the following:
 - 1. The business of recreational vehicles sales.
 - 2. The storage of a recreational vehicle on a property used as the principal residence by the owner of such recreational vehicle; provided, however, that such recreational vehicle shall be unoccupied and not be parked or located between the street line and the front building line of such premises.
 - 3. Camping by the owner on his or her own property provided a permit of no more than two (2) weeks in consecutive days has been issued by the Building Inspector pursuant to this law, appropriate sanitary facilities and/or sewage disposal systems are in place to serve the unit and the lot on which is to be placed is a minimum of fifty (50) feet in width. The Building Inspector shall develop and enforce a permit system which shall be applicable to all such camping. No permit, however, shall be required for tent camping by owners

Town of Deerpark Zoning Law

in the rear or side yard of any residence for more than fourteen (14) continuous days.

- f. This law shall apply to any extension of existing campgrounds or RV parks, including increases in the number of lots or available spaces, even if no addition to total land area is involved.
- g. The operational standards of this section shall also apply to existing parks. However, existing parks shall be assumed to have conformed to the formal license and renewal procedure if they have either a use permit from the Town pursuant to this Zoning Law or a permit from the New York State Department of Health. Any existing park which does not have a permit from the Department of Health or approval from the Town shall not qualify for this treatment and shall be required to make a new submission.

§ 5.2 Manufactured Homes and Parks

Manufactured homes and manufactured home parks shall be subject to the requirements of the Town of Deerpark Manufactured Home Law and the following standards and review criteria:

- 1. Permitted Locations: Manufactured homes shall be permitted only within the mobile home parks (where permitted) excepting that doublewide units shall be permitted in the same locations as other single-family residences, subject to the standards of subsection 2 below.
- 2. Standards Applicable to Individual Manufactured Homes:
 - a. A doublewide manufactured home may be placed in the Town only after obtaining a manufactured home/building permit and shall require a Certificate of Occupancy before initial occupancy.
 - b. Doublewide manufactured homes located outside of manufactured home parks shall comply with all area and bulk requirements that apply to one-family houses in the same zoning district.
 - c. All doublewide manufactured homes shall be connected to an adequate supply of potable water; shall be connected to a community wastewater system or septic system constructed to all State and local requirements; and shall be connected to all applicable utilities including but not limited to electric power, telephone, propane gas, and fuel oil. All the foregoing connections or services shall be provided to the manufactured home within ninety (90) days of permit issuance for placement of the home.
 - d. All doublewide manufactured homes hereafter erected in the Town shall have been manufactured no less than ten (10) years earlier than the date of application; be Underwriter Laboratory certified; and bear the seal of the U. S. Department of Housing and Urban Development. The Zoning Board of Appeals may waive this requirement for just cause and attach conditions to protect public health and safety.
 - e. All doublewide manufactured homes shall have peaked roofs, with a minimum pitch of three (3) feet vertical to twelve (12) feet horizontal.
 - f. Doublewide manufactured homes, outside of manufactured home parks, shall be installed on a load-bearing foundation complete with footings, such as a crawl space or full basement meeting New York State building code standards.

Town of Deerpark Zoning Law

- g. Structure frames of doublewide manufactured homes must be securely attached to the foundation as provide by New York State building codes standards.
 - h. Permanent steps and hand rails shall be constructed at all access points of the doublewide manufactured home to ensure a safe means of ingress/egress into the dwelling unit.
 - i. Exceptions to Permanent Placement Requirements:
 - 1. Construction Field Office: A single manufactured home unit may be temporarily located in any zoning district for use as a construction field office, real estate sales office, or manufactured home sales office provided a building permit has been issued under the New York State building code. Such offices may not be installed prior to thirty (30) days before the commencement of the relevant project and must be removed within thirty (30) days after the completion of the relevant project, a maximum of one (1) year, with a one (1) year extension subject to approval of the Planning Board.
 - 2. Temporary Placement of Manufactured Homes: It shall be unlawful to store any mobile home on any property within the Town of Deerpark for a period in excess of thirty (30) days.
 - j. Prohibited Uses for Manufactured Homes: Manufactured homes shall be used for single family dwelling purposes only. All other uses, including but not limited to use as a warehouse, storage shed, tool shed, outbuilding, or garage are prohibited.
 - k. Non-Conforming Manufactured Homes: Any manufactured home lawfully in existence at the time of the adoption of this local law which is not in full compliance with this Law may remain in its existing location but may not be otherwise relocated within the Town except with respect to relocation on the same lot. No manufactured home previously occupied as a dwelling may be converted to a use prohibited by this Law, however.
3. Manufactured Home Park Special Use and Site Plan Review Criteria:

The Planning Board shall, in reviewing and acting upon Special Use applications for manufactured home parks, apply the requirements of the Town of Deerpark Manufactured Home Law and the following standards and review criteria:

- a. The location of the park shall be one demonstrably suitable for such use, with proper drainage and provisions for stormwater control such that the amount of water leaving the site after development shall not be greater than prior to development.
- b. There shall be documentation of the availability and adequate capacity of all utility providers to service the park. Off-site or centralized water facilities shall be provided.
- c. The park shall be designed to provide maximum open space consistent with the minimum manufactured home lot size requirements of the Manufactured Home Law and offer buffering of individual manufactured homes from each other and from other adjoining lot owners. It shall be landscaped so as to develop and maintain a high quality aesthetic environment and neighborhood character for prospective new and existing residents.
- d. Adequate provisions shall be made for outside storage space and these shall not in any way interfere with emergency access.
- e. Adequate provisions shall be made to control potential nuisance situations such as accumulation of unused materials or vehicles.

- f. Recreational facilities sufficient to accommodate the number of dwellings proposed shall be provided.
- g. There shall be adequate groundwater supplies to support the proposed water system without causing a detrimental impact on adjoining water supplies and evidence of this shall be provided and professional reviewed.
- h. The management and operations plan for the park shall provide for maintenance of all common facilities and ensure the purposes and requirements of this law are met. It shall also provide for limitation of occupancy to manufactured homes meeting U. S. Department of Housing Urban Development regulations under the Manufactured Housing Act.
- i. The manufactured home park shall not result in an over-concentration of such uses in a particular area of the Town such that two-hundred (200) or more mobile homes are placed on contiguous properties, for example.

§ 5.3 Planned Residential Developments

5.3.1 Purposes

- 1. It is the purpose of this section to permit but not require, upon receipt and approval by the Town Board of an application made by the landowner(s), the establishment of a zoning classification entitled “Planned Residential Development (PRD) District”. Such district may be permitted for the following purposes:
 - a. A maximum choice in the types of housing, lot sizes and community facilities available to present and future Town residents or visitors at all economic levels.
 - b. More usable open space and recreation areas.
 - c. More convenience in location of certain accessory commercial and service areas.
 - d. The preservation of trees, outstanding natural topography and geological features and the prevention of soil erosion.
 - e. A creative use of land and related physical development which allows an orderly transition from rural to urban uses.
 - f. An efficient use of land resulting in small networks of utilities and streets and thereby lower housing costs.
 - g. A development pattern in harmony with objectives of the Town of Deerpark Comprehensive Plan.
 - h. A more desirable environment than would be possible through the strict application of other articles of this law or Chapter 200 of the Town Code (Subdivision of Land).
- 2. Generally, these floating districts (permitted within HMU and RR zones) are intended to provide landowners who wish to develop functionally integrated residential or resort communities or complexes with the flexibility to do so, provided that sufficient open

space will be preserved and the development is designed with safeguards to protect the public health, safety and welfare.

5.3.2 Procedures

The Town Board shall establish PRD Districts in the following manner:

1. The owner(s) of the land in a proposed PRD District shall initially apply to the Town of Deerpark Planning Board for the establishment of a PRD – Planned Residential Development District. The application shall be in writing and include a sketch plan.
 - a. Said sketch plan shall be drawn to scale, though it need not be to the precision of a finished engineering drawing, and it shall indicate the following information:
 1. The location and types of the various uses and their areas in acres.
 2. Delineation of the various residential areas, indicating for each such area its general location, acreage and composition in terms of total number of dwelling units, approximate percentage allocation of dwelling units by type and the calculation of the residential density in dwelling units per gross acre of site area.
 3. The general outlines of the interior roadway system and all existing public and private rights-of-way and easements.
 4. The location and area of the common open space.
 5. The overall drainage system.
 6. A location map showing uses and ownership of abutting lands.
 7. Provisions of sewers, water and other required utilities.
 - b. In addition, the following documentation shall accompany the sketch plan:
 1. Evidence that the proposal is compatible with the goals of the Town of Deerpark Comprehensive Plan.
 2. How common open space is to be owned and maintained.
 3. If the development is to be staged, a general indication of how the staging is to proceed. The sketch plan shall show the total project whether or not the proposed development is to be staged.
2. The Planning Board shall review the sketch plan and related documents and render a report to the applicant on the acceptability of the proposal along with recommendations for changes or improvements, if any. An unfavorable report shall state clearly the reasons therefore and, if appropriate, advise the applicant what revisions are necessary to receive acceptance.
3. Upon receipt of the Planning Board's report, which shall be made within sixty-two (62) days of the meeting at which the sketch plan is initially presented, the applicant shall submit a preliminary development plan for the project to the Planning Board, including but not limited to all information required under Chapter 200, Subdivision of Land, and for purposes of compliance with the State Environmental Quality Review Act (SEQRA). The applicant shall also submit, in the form of a letter or brief, information indicating

how the development will specifically comply with or meet the special use and site plan review criteria contained in this chapter and the following additional information:

- a. An area map showing the property proposed for PRD and adjacent property, if any, owned by the applicant and all other properties, roads, and easements within five-hundred (500') feet of the applicant's property.
- b. The preliminary development plan shall show the location, proposed uses and height of all buildings; locations of all parking and truck loading areas which egress thereto; location and proposed development of all open spaces; location of all existing or proposed site improvements; description and location of water supply, sewerage system and storm drainage system; location of all signs and designs of lighting facilities; the extent of building area proposed for non-residential uses, if any; the location of existing watercourses and wetlands; and the location of municipal and fire, light and school district boundaries.

4. Action on Preliminary Plan

- a. Within sixty-two (62) days of the receipt of a completed preliminary development plan, the Planning Board shall review such submission, act upon the SEQRA submission, conduct a public hearing on the development plan and recommend action to the Town Board regarding establishment of a PRD District to accommodate the proposed project. It shall concurrently approve, disapprove, or approve with modifications the preliminary development plan, conditioning any approval on action of the Town Board with respect to the PRD District.
- b. The Planning Board shall approve the plan if it finds that:
 1. The proposed uses will not be detrimental to present and potential uses in the area surrounding the proposed district.
 2. Existing and future highways are suitable and adequate to carry anticipated traffic associated with the proposed district.
 3. Existing and future utilities are or will be adequate for the proposed development.
 4. The development plan complies with the requirements of this chapter and is consistent with the Town of Deerpark Comprehensive Plan.
- c. Preliminary approval by the Planning Board shall be in the form of a written statement to the applicant and may include recommendations to be incorporated in the final site plan. If the preliminary development plan is disapproved, the statement of the Planning Board shall contain the reasons for disapproval. The Planning Board may recommend further study and resubmission of a revised preliminary development plan.

5. When the Planning Board has approved a development plan for a proposed district, the plans shall be filed in the office of the Town Clerk, and the Town Board shall then proceed to consider amendment of the chapter in accord with the Town Law, conducting a hearing and acting upon the same within ninety (90) days of the meeting at which the Planning Board's recommendation is received. The Town Board shall, where appropriate, provide for County Planning Department review of the proposal and may attach conditions to its approval. When any planned district is not substantially developed in accordance with the approved preliminary development plan for a period of three (3) years from the effective date of its establishment, and provided that it shall then

appear that rights vested in persons acting in good faith in reliance on such zoning classification will not be prejudiced thereby, the Town Board, upon resolution and no earlier than sixty-two (62) days following written notice to the applicant and general publication in a newspaper of general circulation, the Town may declare the same, by which action the change in classification to a PRD District shall be voided. The Town hereby exercises its authority under § 10 of the Municipal Home Rule Law to supersede § 264 of the New York State Town Law so as to permit voiding of a zoning change without resorting to further rezoning procedures.

6. Final Approval

- a. After the Planning Board has approved the preliminary development plan, and provided the Town Board has approved the establishment of the PRD District, the applicant shall prepare a final development plan, including all information required under Chapter 200, Subdivision of Land, and submit it to the Planning Board for final approval.
- b. Where more than twelve (12) months have elapsed between the date of preliminary approval and the time of submission of the final development plan, and where the Planning Board finds that conditions affecting the plan have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary development plan for further review and possible revision prior to accepting the proposed final development plan for approval by the Planning Board. The applicant(s) may, or the Planning Board may require the applicant to, submit the final development plan in stages.
- c. The final development plan shall conform substantially to the preliminary development plan approved by the Planning Board and meet all requirements set forth in Chapter 200, Subdivision of Land, pertaining to final plans. It shall incorporate any revisions or other features that may have been recommended by the Planning Board and/or the Town Board at the time of preliminary review.
- d. Within sixty-two (62) days of the receipt of a completed application for final development plan approval, the Planning Board shall review and act on such submissions and so notify the Town Board. If no decision is made within sixty-two (62) days, the final development plan shall be considered approved.
- e. Upon approving an application, the Planning Board shall endorse its approval on a copy of the final development plan and shall forward it to the Building Inspector, who may then issue a building permit to the applicant if the project conforms to all other applicable requirements of the Town.
- f. If the application is disapproved, the Planning Board shall notify the applicant and Town Board of its decision, in writing, and its reasons for disapproval.
- g. Final development plan approval shall constitute final development plan approval under Chapter 200, Subdivision of Land, and the provisions of § 276 of the Town Law, and a copy shall be filed in the Orange County Clerk's office.
- h. No building permits shall be issued for construction within a PRD District until all requirement improvements are installed or a performance bond is posted in accordance with the procedures provided by in Chapter 200, Subdivision of Land, and § 277 of the Town Law.

5.3.3 General Requirements

1. Location

A PRD District may be permitted within HMU (Hamlet/Mixed Use) and RR (Rural Residential) Districts.

2. Minimum Site Area

A PRD District should comprise at least eight-hundred (800) contiguous acres of land, except for retirement housing projects, which shall require two-hundred (200) contiguous acres of land, although lesser sized tracts may be approved at the discretion of the Planning Board and the Town Board.

3. Density and Open Space

The density and open space standards applicable to conservation subdivisions shall also apply to all PRD projects.

4. Utilities

All uses situated in a PRD District shall be served by community water and sewerage systems. All water, sewer, and gas lines (where available) and all other lines providing power and communication service shall be installed underground in the manner prescribed by the appropriate state and local agency and/or utility company having jurisdiction.

5. Permitted Uses

All residential uses, except mobile homes, hotels, motels, and resorts shall be permitted in PRD Districts.

6. Other Zoning Requirements

With the exception of lot and yard requirements which may be waived or modified by the Planning Board, the PRD District shall comply with all other provisions of this chapter. No modification or waiving of density standards generally applicable to PRD Districts shall be permitted. Density for non-residential uses shall be determined on the basis of the projected sewage flows, with an equivalent dwelling unit being that amount of flow normally associated with a one-family residential dwelling.

7. Ownership

The land proposed for a PRD District may be owned, leased or controlled either by an individual, corporation or by a group of individuals or corporations. PRD District applications shall be filed by the owner or jointly by all owners of the property included in the application. In the case of multiple ownership, the approved plan shall be binding on all owners.

8. Organization

A PRD District may be organized as a condominium, a cooperative, a leasehold, or held in individual or corporate ownership. If a property owners' association (POA) is to be established, and one shall be required if any property is to be held in common, such POA shall be organized as provided for conservation subdivisions in Chapter 200, Subdivision of Land.

§ 5.4 Planned Residential Districts (PRD) and Planned Residential Retirement Districts (PRRD)

Intent and Purposes

It is the intent and purpose of this section to create by Special Use Permit or rezoning of the Town Board, Planned Residential Communities (PRC's) and Planned Residential Retirement Communities (PRRC's) on one or more sites and in proper locations, within the RR and HMU zones, but outside the RRC overlay zone, so as to promote or encourage the following:

5.4.1 Variety of Housing Types

Promote the opportunity to create a wider variety of housing types, ranging from single family detached to single family attached units (townhouses) and multiple dwellings designed to serve the present and the future owner-occupied and rental housing needs in the Town of Deerpark, including elderly households, families of moderate income, small families, and seasonal residences.

5.4.2 Creative Use of Large Tracts

Encourage the creative use of large tracts of land with direct access to State or County highways, and which contain at least eight hundred (800) contiguous acres of land so as to promote the establishment of a more desirable living environment than would normally be possible under current regulations. PRRD's for age oriented developments shall be required to have adequate access over public roads to State or County highways and contain at least two hundred (200) contiguous acres of land. (NOTE: PRD's for non-age-oriented residential developments shall contain at least eight hundred (800) acres of land and shall have direct access to State and County roads).

5.4.3 Flexibility of Design and Development

Provide for flexibility of design and development in such a way as to promote superior land planning design, greater economy, efficiency and convenience in the arrangement of land uses and their supporting infrastructure, preserve open space, protect wetlands, flood plains and other natural features, and preserve scenic areas and vistas.

5.4.4 Service and Utilities

Encourage orderly and well-planned development of a scale and location that will make it feasible to construct a comprehensive package of supporting utilities, services and facilities, active and passive recreation facilities, a storm water control and management system, and energy conservation measures, so as to achieve developments which are environmentally, physically, visually, and economically superior.

5.4.5 Traffic Circulation

Encourage orderly development of sites with adequate access over public roads to either State or County highways, either directly or by the development of new or existing roads to current Town standards so as to provide safe, efficient, adequate access and traffic circulation.

5.4.6 Recreational and Economic Development

Encourage residential development that will add to the economic base of the community and support tourism such as adult oriented and seasonal developments in PRRD's. such uses will

service to offset a lack of industrial ratables while having a minor impact on traffic and tax costs by not generating school age children.

5.4.7 Preservation

Encourage the preservation, to the greatest reasonable extent possible, of slopes over twenty-five (25%) percent, wetlands, flood prone areas, historic structures or sites, unique natural or geographic formations, rare vegetation or habitats of endangered wildlife, lakes, ponds, significant recreational areas or resources, trails, bikeways, pedestrian routes, significant scenic routes and particularly those having views of ridge lines, water bodies, scenic vistas, and mountains.

5.4.8 Adequate Review

Provide adequate review and supervision of development by requiring both conceptual and specific plan approvals tied to the findings of adopted environmental impact statements.

5.4.9 Eligibility

This authorization shall be applicable to the RR and HMU zones of the Town of Deerpark (not including the RRC overlay zone) and shall be utilized only when the Town Board determines that its utilization will benefit the Town based upon the results of a Generic or Draft Environmental Impact Statement. Once the GEIS or DEIS is prepared and SEQRA process has been completed as specified hereinunder the Town Board shall determine if the Zoning Map will be changed in accordance with the provisions of these regulations. When the Zoning Map is changed to reflect the PRD or PRRD district created that use will be the exclusive use allowable on that re-zoned parcel.

5.4.10 Uses Within a PRD or PRRD

1. Primary Uses

Primary uses within a PRD or PRRD shall be as follows:

- a. Residential Uses: Detached, semi-detached, or attached one family dwellings, and multiple dwellings.
- b. Non-residential Uses: Active and passive park and recreational areas, open space and recreational facilities, swimming pools, tennis courts, ball fields, golf courses, playgrounds, walkways, bikeways, riding trails, nature trails, and similar structures and facilities. Certain uses which may be noise inducing or visually offensive such as, but not necessarily limited to, amusement parks or rides, bungee jumping, motor cross or motorized trail bike facilities shall be prohibited.

2. Accessory Uses

Accessory uses in PRD or PRRD shall include the following:

- a. Buildings and/or facilities designed or intended for the administration or maintenance of the PRC or PRRC.
- b. Off-street parking facilities and utilities.
- c. Buildings and/or facilities (attached to or detached from the residential units) designed or intended for storage of residents' personal belongings or equipment for an approved use.
- d. Residential and cultural facilities for the sole use of the residents of the PRC or PRRC and their guests, including but not limited to the following: clubhouse, restaurant and/or

snack bar, swimming pool, tennis courts, shuffleboard courts, picnic grounds, community center and hiking trails, or any other amenities desirable for the implementation and development of the community. All such facilities, however, shall be subordinated to the residential character of the community.

- e. Buildings and/or facilities designated or intended to facilitate the sale or resale of the residential dwelling units.
- f. Construction related storage sheds.
- g. Such other uses as may customarily be accessory to this type of community.
- h. All of the foregoing shall be subject to the discretion of the Planning Board with regard to size, need, and appropriateness to the community.

3. Public and Commercial Uses

The following additional uses are permitted within a PRD or PRRD provided they are designed, planned and developed for the sole purpose of service to the residents and guests of the PRC or PRRC.

- a. Public Uses: Health care facilities, schools, public buildings, membership clubs, child and/or adult day care or nursery schools and other uses supportive of the special needs of a particular PRC or PRRC.
- b. Commercial Uses: Retail, personal service shops, business and professional offices and grocery stores, provided that the total land area devoted to commercial uses does not exceed four (4%) percent of the gross acreage within an age-oriented PRRC or does not exceed two (2%) percent of the gross acreage within a PRC. Automotive related uses may be permitted and limited by the Planning Board at its discretion as part of their approval of the PRC or PRRC.

4. Definitions

- a. Planned Residential Communities (PRC)

A residential development located within a PRD consisting of one or more parcels of land with contiguous total area of at least eight hundred (800) acres forming a land block to be developed exclusively as a planned residential community in conformance with the provisions applicable to the Local Law.

- b. Planned Residential District (PRD)

A zoning district devoted exclusively to the creation, development and regulation of Planned Residential Communities (PRC) and their accessory uses.

- c. Planned Residential Retirement Community (PRRC)

A residential development located within a PRRD consisting of one (1) or more parcels of land with contiguous total area of at least two hundred (200) acres forming a land block to be developed exclusively as a planned retirement community as established and further defined in the Local Law.

- d. Planned Residential Retirement District (PRRD)

A zoning district devoted exclusively to the creation, development, and regulation of Planned Residential Retirement Communities (PRRC) and their accessory uses.

5.4.11 Development Standards and Controls

Except where specified herein, all development standards and controls normally applicable to all other residential subdivisions and uses shall also be applicable to PRC's and PRRC's. Where these standards are in conflict with the Zoning Law or other Town regulations the standards contained herein shall govern.

1. Gross Density

The maximum permitted density for an age-oriented PRRC will be 6.25 dwelling units per gross acre. The maximum permitted density for a PRC will be 3.0 dwelling units per gross acre. However, if the gross acreage of a PRC includes land in the following categories, the total amount of land in these categories shall be deducted from the gross acreage in calculating density.

Gross acreage density deductions for PRC's include:

- a. Slopes of twenty-five (25%) percent and greater.
- b. Existing easements unusable for development.
- c. Existing streets.
- d. Water bodies.
- e. DEC regulated wetlands for which no permit has been granted for development, and which has been delineated on an official wetland map of the NYSDEC at a date at least one (1) year prior to the time of submission of an application under this section of the Zoning Law.
- f. Federal wetlands as described by a wetland specialist on an application suitable for submission to the U.S. Army Corps of Engineers for which no permit has been granted for development.

2. Legal Formation

An age-oriented residential development community PRRC shall, through its corporate association, association owners, or any other legal entity, consist of a parcel or parcels of land which shall be restricted in their use, occupancy, or ownership, or any combination thereof, by by-laws, rules, regulations, covenants or restrictions to permanent residents whose use, occupancy, or ownership shall be restricted as applicable to:

- a. Any person of the age of fifty-five (55) years or over; or
- b. A husband or wife, regardless of age, residing with his or her spouse, provided that the spouse of such person is of the age of fifty-five (55) years or over; or
- c. The child or children residing with a permissible occupant or owner, provided that the child or children is or are of the age of nineteen (19) years or over; or
- d. Adults under fifty-five (55) years where it can be shown that the presence of such person is essential to the physical care of an older person or qualifying individual or individuals, by reason of their medical condition.

The applicant will have to demonstrate how these provisions will be enforced and the consequences if the provisions are not met after applicants qualified a, b, c, d above take title.

3. Ownership

The ownership, use, or occupancy of the residential units in such PRRC may be achieved through fee simple, condominium, or cooperative ownership, or the granting of a leasehold interest. The manner of ownership shall not be dispositive of the development's qualifications as a PRRC. Said parcel shall be deemed to qualify as a PRRC if its ownership, use, or occupancy, as set forth in its by-laws, rules, regulations, covenants or restrictions as applicable are restricted and dedicated to and conform with eligibility criteria set forth in 2a, 2b, 2c, or 2d above.

4. Guests

Notwithstanding the foregoing, nothing contained herein shall be construed to prohibit the adoption of any rules, regulations, laws, covenants, and restrictions permitting the permanent residents of such communities to invite members of the extended family or guests, or both, for temporary visits, from time to time, or prohibiting the adoption of such other rules that are appropriate for such community. In no case shall "temporary" exceed three (3) months.

5. Minimum Lot Dimensions

- a. Single Family Detached Units: In no case shall single family detached housing in fee simple ownership be placed on lots smaller than five thousand (5,000) square feet. This lot size minimum shall not apply to units in condominium ownership.
- b. Single Family Attached, Semi-Detached, and Multi-family Units: In no case shall single family attached and semi-detached units in fee simple ownership be placed on lots smaller than two thousand (2,000) square feet per unit.

6. Building Height

The maximum permitted building height within a PRD or PRRD shall be thirty-five (35) feet and two and one-half (2 ½) stories.

7. Maximum Coverage

- a. The maximum permitted coverage of gross site area on an age-oriented PRRD site shall be twenty-five (25%) percent for buildings and forty (40%) percent for impervious surfaces.
- b. The maximum permitted building coverage on a PRD site shall be fifteen (15%) percent and impervious surfaces shall not exceed twenty-five (25%) percent.

8. Screening and Buffering

The minimum buffer area shall in no case be less than fifty (50) feet measured from the boundary of the PRD or PRRD to the nearest building, parking area, or active recreation area. In reviewing the development plan, the Planning Board shall consider the setback and proposed screening of active recreation areas and may require buffer areas of up to one hundred (100) feet for such uses. Buffer and screening areas shall be landscaped or left in their natural state wherever possible.

9. Open Space and Recreation Areas

At least one-third (1/3) of the gross acreage of any PRC or PRRC shall be composed of land which is used for recreational purposes and/or preserved as permanent open space and neither used for motor vehicles nor located within twenty (20) feet of a building.

10. Vehicular Circulation System and Traffic Access

All streets and driveways within a PRC or PRRC shall be designed to adequately serve their intended traffic function and the anticipated volume or traffic of the development. Adequate access for PRRC shall be provided via a public road to a State or County highway either directly or by a new road built to current Town standards for a two lane road. Major traffic circulation streets which connect to the various sections of the PRRC and provide access to the off-site roads shall be designated “collector roadways” and shall be paved to a width of not less than twenty-two (22) feet with a fifty (50) foot right of way. All other vehicle circulation elements shall be designated as “minor roadways” and shall be paved to a width of not less than twenty (20) feet with a thirty (30) foot right of way. These standards shall also apply to a PRC, but a PRC must have direct access to a State or County highway.

11. Pedestrian Circulation System

In each PRC or PRRC a pedestrian circulation system shall be designed and installed in addition to the vehicular circulation system, which is sufficient for the needs of its residents. Such a system might be composed of a combination of paved and unpaved walkways and bikeways of appropriate width, design, and location to serve their intended function.

12. Utilities and Services

- a. **Underground Lines:** All power and communication lines, as well as water, sewer, and storm drainage lines (where approved by the Town Engineer) shall be installed underground in the manner prescribed by the regulations of the government agency or utility company having jurisdiction. Storm drainage is encouraged to be located in open swales.
- b. **Preliminary Approval of the Site Plan:** All buildings within PRD's and PRRD's shall be served by central water supply and sewage treatment systems as approved by appropriate government agencies having jurisdiction thereof. Preliminary Planning Board approval shall be conditioned on approvals of other agencies where other agencies are required to provide approvals. Individual privately owned wells shall not be permitted. An exception to the central sewer requirements is made for up to five (5) model homes in a PRD or PRRD on a temporary basis for up to two (2) years. Thereafter, they shall be tied into the central sewer system or no further building permits will be issued for the development.
- c. **Future Needs:** Where utility facilities are provided they shall be planned in such a way as to anticipate future utility needs and wherever reasonably feasible shall be sited to reduce the capital costs associated with any future central utility construction.
- d. **TV Hookups:** TV hookups shall either be by cable television or central antenna system designed to minimize adverse aesthetic impact.

- e. Refuse Collection: The PRC or PRRC shall provide an adequate means of collection and storing refuse between collections including recycling. Any outside storage and garbage shall be in centrally located containers designed to prevent rodent infestations and shall provide sufficient screening as determined by the Planning Board.
- f. Cooling Systems: Cooling systems shall be designed so as to minimize adverse aesthetic impact.
- g. Surface Water Runoff: A surface water management plan shall be developed to demonstrate that the rate of storm water runoff from the site after construction is no greater than the rate of runoff prior to development.
- h. Surface Water Quality Runoff: The surface water discharges shall meet appropriate State and Federal standards for water quality.

13. Parking

- a. All parking facilities shall be located upon the same tract of land as the buildings they are to service.
- b. Parking areas shall be provided on site within areas designed and designated specifically for parking and not on or along streets.
- c. There shall be a minimum of not less than two (2) parking spaces for each dwelling unit in a PRC and a maximum of two (2) parking spaces for each dwelling unit in a PRRC. At least ten (10%) percent of such spaces shall be designated for guest parking.
- d. All spaces shall be located within designated parking areas or within the structure of buildings. Access to roads, driveways or parking areas shall be designed such that no vehicles are required to back onto “collector” streets.

14. Certificate of Occupancy

No certificate of occupancy shall be issued for the use or occupancy of any building or dwelling located in a PRD or PRRD unless said building or dwelling has been constructed in accordance with and substantially complies with the approved site development plan.

15. Maximum Length of Building

No building, dwelling unit, or other structure shall be constructed to a length in excess of one hundred fifty (150) feet except for a commercial building upon approval by the Planning Board.

16. Maximum Clearance of Vegetation

Existing vegetation may be cleared for the construction of the buildings, parking areas, dwelling units, and recreation areas forming the PRC or PRRC to a maximum of fifty (50%) percent of the total gross site area for a PRD and a maximum of sixty (60%) percent of the total gross site area for a PRRD.

17. Minimum Livable Floor Area

The minimum livable floor area for any residential dwelling unit in an age-oriented PRRC shall be as follows:

- a. Studio and One-Bedroom Residential Units: 600 square feet.
- b. Two-Bedroom Residential Units: 800 square feet.

18. Distance Between Buildings

There shall be a minimum distance of twenty (20) feet between all structures and a minimum distance of fifty (50) feet between the front or rear of a residence and another residential structure.

5.4.12 Application Procedure

The application and approvals shall consist of three (3) sequential phases.

1. Phase 1

The first phase will be an optional discussion of requirements with the Town Board and Planning Board at a joint meeting. In this phase the applicant may, prior to formal submission of the Development Plan application as described below, meet in a pre-application conference with the Town and Planning Boards. At this conference meeting the applicant and Town and Planning Boards shall review the requirements and procedures defined herein, discuss the general planning concepts for the proposed development, and determine at the meeting if the proposal meets the requirements of this Law for a PRD or PRRD. At least fifteen (15) days prior to a meeting with the Boards, the applicant shall submit fifteen (15) copies of a sketch plan of the PRC or PRRC at a scale of 1" = 200' with sufficient detail as to land uses and access points to permit the Boards to determine if the proposal meets the basic PRD or PRRD requirements. The purpose of this phase is to clarify the regulations, provide for better understanding, and make the development process more efficient. It is optional at the discretion of the applicant.

2. Phase 2

The second phase is submission of the plans to the Town Board for designation or re-zoning of the area as a PRD or PRRD and the simultaneous PRC or PRRC Plan Review by the Town Board and Planning Board or the alternative re-zoning of the site, which procedure is described in subparagraph a. below. The application for designation of the PRD or PRRD and PRC or PRRC Development Plan shall consist of the following, of which twenty-five (25) copies shall be submitted to the Town Board.

a. Alternate Re-Zoning Procedure, GEIS, and Fees

The applicant may opt to break Phase 2 into two (2) separate phases by requesting a re-zoning of the site supported by the preparation and submission of a Generic Environmental Impact Statement (GEIS), and later address items b. through i. below with more detailed site plans and a site specific Supplemental Draft Environmental Impact Statement after such zone change has been approved. If this option is chosen, the GEIS shall address, at a minimum, the following concerns: (1) water – adequacy for units proposed for domestic and fire flow protection and general location of towers and well field(s); (2) sewer – demonstrate means of sewage treatment, location of plant and waste assimilative capacity analysis of stream to be used for sewage discharge; (3) layout of site showing general density, type, location and mix of dwelling units; (4) wetlands based on State DEC maps; and also potential Federal wetlands based on either soils maps or National Wetland Inventory maps, whichever is more stringent;

(5) proposed areas of open space and recreation; and type of recreation planned; (6) traffic access including average annual daily traffic volumes, peak hour volumes, sight distance at access locations to existing road(s) and description of need (if any) for upgrading of access road; (7) drainage basins and channels including floodways and flood plains (if any); and (8) a site map at a scale no larger than 1 inch = 200 feet, with a scale of 1 inch equals 100 feet being preferable, and such map showing slopes based on 20 foot contour maps or smaller contour intervals if the same are readily available. The GEIS must be prepared in adequate detail for the Town Board and general public to fully understand the scope and impact of the overall project and what measures need to be taken to mitigate these impacts in the future.

i. Fees

The submission of the GEIS for review shall be accompanied by a SEQRA review deposit of \$10,000 to be placed in escrow by the Town. Such funds shall be used by the Town to defray the costs of consultants retained by the Town to review said GEIS. As specified in paragraph g below, the total SEQRA review fee shall be determined in accordance with the requirements of NYCRR Part 617, and shall not exceed the amount provided for therein. Funds not expended for the review of the GEIS shall be returned to the applicant within sixty (60) days after the completion of the GEIS review process and the rendering of the Town Board decision on the re-zoning, pending any submission of an application and detailed plans and accompanying documents as detailed in paragraphs b. through i. below.

ii. Public Hearing

Within thirty (30) days of acceptance of a GEIS as being complete by the Town Board, the Town Board shall hold a public hearing on both the GEIS and the re-zoning request. Said public hearing shall meet the notice and procedural requirements for public hearing set forth in the Town Law, Section 274-a(2). The GEIS SEQRA hearing and zone change hearings shall be conducted simultaneously, if possible.

iii. Decision of the Town Board

Within thirty (30) days of the preparation of the written findings statement on the GEIS, the Town Board shall, by resolution, act either or approve, approve with modifications or conditions, or disapprove the PRD or PRRD re-zoning request. If the re-zoning request is disapproved, the reasons for disapproval shall be stated.

iv. Expiration

Approval or approval with modifications, of the PRD or PRRD zone shall expire after twelve (12) months of the date of issuance, unless the applicant has either submitted applications materials and the requisite fees set forth in paragraphs b. through i. of this section; or such time limit is extended by the Town Board for a reasonable period of time to be specified by the Town Board.

b. PRC or PRRC Development Plan

The PRC or PRRC Development Plan shall be drawn at a scale of not greater than one (1) inch equals two hundred (200) feet and must consist of one (1) or more sheets indicating the following information:

i. Ownership

Property lines and the names of all adjoining streets and property owners.

ii. Neighboring Uses

A map showing the uses of land in and adjacent to the site.

iii. Topography

Topographic information including contours with a vertical interval of no more than five (5) feet.

iv. Features

Existing natural and man-made features, including streams, wetlands, significant rock outcroppings, stone walls, flood plains, slopes over fifteen (15%) percent, slopes over twenty-five (25%) percent, buildings, and other improvements.

v. Circulation

The proposed elements of the vehicular and pedestrian circulation system.

vi. Land Use Plan

A land use plan showing the proposed uses of the site, including open spaces and recreation area(s), the location of residential areas, their type, size and composition, any area of non-residential use, and sites reserved for public utilities.

vii. Utilities and Services

The nature and general location of all utility and service systems and facilities, including sewer, water, storm drains, public utilities, and refuse storage.

viii. Applicant and Owner

The name and address of the applicant, the property owner, and, if the applicant is other than the property owner, the evidence of his authority to act on behalf of the property owner.

c. Written Statement

The written statement accompanying the PRC or PRRC Development Plan shall consist of a text description of the proposed plan indicating how it will serve to implement the intent and purpose of such developments as set forth in this section, a preliminary analysis estimating the various quantitative elements of

the plan including the number of residential dwelling units (by type), the amount of non-residential floor space, the number of off-street parking spaces and facilities, as well as the types of planned recreation facilities, proposals for the construction, operation and maintenance of all recreation facilities, open space, parking areas, walkways, utilities, and other common lands and facilities.

d. Staging Plan

A proposed plan indicating the approximate staging of building construction and related improvements within the PRC or PRRC, including the general order of construction and the estimated timing of each stage.

e. List of Approvals Required

A list of approvals that are required from various governmental agencies prior to proceeding with the first stage and any subsequent stage of development.

f. Environmental Documents

A proposed site specific DEIS contents scope shall be submitted by the applicant and a date for a scoping session will be set by the Town Board that is mutually convenient to the applicant and the Town Board within thirty (30) days of their first meeting after receipt of required documents. A Draft Environmental Impact Statement (DEIS) will be prepared in accordance with the requirements of the New York State Environmental Quality Review Act (SEQRA) describing the anticipated physical impacts of the proposed development, including any negative impacts that may result and actions planned by the applicant to mitigate them.

g. Fee

The application and accompanying documents shall be accompanied by a filing fee of \$10 per unit and an initial \$10,000 SEQRA deposit to be placed in escrow; except in cases where an applicant has pursued the alternate procedure set forth in paragraph a. above; in such a case, the SEQRA deposit shall be reduced to \$5,000. The actual SEQRA fee shall be determined in accordance with SEQRA regulations and shall not exceed the amount provided for therein. The developer or applicant shall be responsible for all fees for consultants retained by the Planning Board and/or Town Board to review the project. Following the completion of the SEQRA process, the applicant shall place money in an escrow account to cover these costs. Funds not used shall be returned to the applicant within sixty (60) days of final approval for all phases or sections of the project.

h. Other Referral

To receive further assistance in its designation review, the Town Board may refer the proposed PRC or PRRC Development Plan to the Town Engineer, Town Planner, and any such agencies or officials of the Town, County, or State government as the Board may determine appropriate. Mandatory referrals, if any, shall also be made at this time.

i. Public Hearing

Within thirty (30) days of acceptance of a site specific DEIS as being complete by the Town Board, the Town Board shall hold a public hearing on both the PRC or PRRC plan and DEIS. Said public hearing shall meet the notice and

procedure for public hearings set forth in the Town Law, Section 274-a(2). The site specific DEIS SEQRA hearing and zone change hearings, if the applicant has not opted to choose the alternative zone change procedure outlined in paragraph a. of this section, shall be conducted simultaneously if possible.

j. Decision of Town Board

Within thirty (30) days of the date of the circulation of the site specific Full Environmental Impact Statement (FEIS) and preparation of its Written Findings Statement, the Town Board shall, by resolution, act either to approve, approve with modifications or conditions, or disapprove the PRD or PRRD application. If the application is disapproved, reasons shall be stated. The Town Board can designate the Planning Board to act in its place.

k. Effect of Approval

Approval by the Town Board, or approval with modifications, shall be deemed to authorize the applicant to proceed with the detailed design of the initial stage(s) of the proposed development, and to submit applications for detailed site plan approval of such stage(s), or sections thereof, in accordance with the approved PRRC or PRC Development Plan. When the PRD or PRRD is approved by the Town Board such action shall be considered as a zoning of the specific site for a PRD or PRRD and the Zoning Map shall be revised and dated accordingly. The Town Board can designate the Planning Board to act in its place.

l. Expiration

Approval, or approval with modifications, of the PRC or PRRC Development Plan shall expire at the end of twelve (12) months after the date of issuance, unless (a) the applicant has submitted at least one (1) detailed site plan application for a section of the PRC or PRRC; or (b) such time limit is extended by the Town Board for a period to be specified by the Town Board. The Town Board can designate the Planning Board to act in its place.

m. Filing

The overall PRC or PRRC plan shall be filed with the Town Clerk within sixty (60) days of its approval by the Town Board, and may be amended under the same procedure as stipulated for its original adoption.

n. Standards to be used in Reviewing a PRC or PRRC Development Plan Application by the Town Board. In arriving at a decision to approve or disapprove the PRC or PRCC development plan application, the Town Board shall take into consideration the following:

1. Compliance with Intent and Purposes

The extent to which the application will serve to implement the intent and purposes of these regulations for PRD's and PRRD's.

2. Compliance with Standards

Whether the proposed uses meet the standards set forth in this Section.

3. Natural Features

The proposed arrangement of land uses and their proposed layout on the site, including their compatibility to natural topographic features and adjoining properties.

4. Impact

The impact of the proposed development upon neighborhood properties and the community as a whole.

5. Staging Plan

The staging plan shall be designed to assure that future residents of the first sections of the PRC or PRRC shall have adequate services, including all utilities, streets, recreational facilities, and landscaping to suit their needs, even if future stages do not materialize.

3. Phase 3: Detailed Site Plan Approval for PRC or PRRC Sections by the Planning Board

The third phase shall be detailed site plan review and approval of the PRC or PRRC sections by the Planning Board. This phase may also include possible subdivision review and approval and any necessary SEQRA reviews by the Planning Board which may be done simultaneously with site plan review. An Environmental Impact Statement (EIS) is a requirement for establishment of a PRD or PRRD by the Town Board. If the plans have changed substantially since the original EIS, or if a substantial period of time has elapsed which modifies conclusions in the EIS, or if an EIS was never completed, the Planning Board may require a new or supplementary EIS prior to approval of the site plans for a PRC or PRRC.

a. Initiation of Third Stage

Subsequent to Town Board approval of the PRC or PRRC Development Plan application, the applicant shall proceed to the third stage or review which involves detailed site plan approval of the various sections of the PRC or PRRC.

b. In the case of a PRRC which has been previously mapped on the Zoning Law Map by the action of the Town Board, and for which a Phase 2 submission was not required, the applicant shall first submit to the Planning Board a PRRC Development Plan as provided under Phase 2, the Planning Board shall review this Development Plan and shall act on it in the same manner as is set forth for actions by the Town Board, and following review and approval by the Planning Board the said Development Plan shall be invested with the same effect of approval as is set forth under Section 2j of the application procedure section of the Local Law. In the event that the Planning Board does not approve a Development Plan within the time allotted, or it approves a plan with conditions that are substantially different from those which were proposed by the Applicant, the Applicant may in such instance request a review by the Town Board, whose action shall be taken within sixty (60) days of a request, and in such instances the action of the Town Board shall be deemed to be final and binding unless there is a decision to the contrary by a court of law with jurisdiction in the matter.

A developer shall have the option of submitting a site plan for all or sections of the property for simultaneous review with that of the Development Plan and the DEIS in accordance with the provisions for Phase 3 set forth below.

c. Site Plan Approval

The review and approval of the individual site plans for each section shall be in accordance with the standards, requirements, and procedures for reviewing plans as delineated in the Zoning Law, with the additional requirements set forth herein. Site plan approval shall be required prior to the issuance of building permits within any section or stage of an approved PRC or PRRC.

d. Phases

The site plan requirement, when applied to the review of a section of a PRC or PRRC, shall be deemed also to include the factors listed in Phase 2 of those that apply to each section of the PRC or PRRC, and a detailed review of the adequacy, location, arrangement, design, and appearance of each aspect of development listed in the application procedure. While the scope of the Planning Board's review of the site plan will generally relate to the section of the PRC or PRRC at issue, the Planning Board shall have the authority to assure that aspects of the development (e.g. water, sewer, utilities, streets, etc.) which will later be used to service, or connect to, other sections of the PRC or PRRC shall be adequate to suit the purposes and needs of the PRC or PRRC development as a whole.

e. Fee

Each application for sectional site plan approval shall be accompanied by a fee as stipulated by Chapter 75, Development Fees. If a subdivision is also required there will not be a duplicate subdivision fee.

f. Variation from PRC or PRRC Development Plan

The specific type and number of proposed dwelling units within the development may be varied by no more than ten (10%) percent from the distribution as shown on the approved PRC or PRRC Development Plan, but in no case shall the total number of dwelling units in the entire PRC or PRRC be permitted to exceed the number approved as a part of the PRC or PRRC Development Plan. The configuration of open space and internal circulation system may be revised provided not more than fifteen (15%) percent of the area of the site is affected by such change and the circulation system access points to off-site roads are not altered by more than fifty (50) feet.

g. Legal Assurances

Each application for detailed site plan approval shall be accompanied by appropriate legal documents as may be necessary to provide for and assure continued proper future maintenance and ownership responsibilities for all common areas, facilities, and utilities within each stage of development or section thereof.

h. Other Assurances

The Planning Board may condition its approval upon the applicant obtaining any other necessary approvals from the appropriate Town, County, State, or Federal agencies having jurisdiction thereof.

i. Phased Approval

To assure orderly development within a PRD or PRRD, the Planning Board shall approve site plans for subsequent sections of the PRC or PRRC only as the pace of development in preceding sections may warrant.

j. Performance Bonds

The applicant shall be required to post performance security pursuant to Town Law Section 277 in sufficient amounts and duration to assure that all streets or other public places shown on the site plan shall be suitably graded and paved and that street signs, sidewalks, street lighting standards, curbs, gutters, street trees, water mains, fire alarm signal devices including necessary ducts and cables or other connection facilities, sanitary sewers or storm drains shall be installed in accordance with standards, specifications, and procedures acceptable to the appropriate Town departments. The developer must also post an escrow account in the amount of 10% of the performance bond for inspections by the Town Engineer. If developer requires extra building inspections to proceed at an advanced pace he should deposit an escrow account with the Building Department for additional inspections.

k. Permanent Open Space

All areas designated as permanent open space on a development unit site plan shall conform to the following requirements:

1. Such areas shall be recorded directly on the site plan and notes shall be added thereon excluding such open space areas from any other development unit.
2. A written agreement between the owner or his agent, or developer shall be approved by and filed with the Town Board. This written agreement shall cover the deed, title, and dedication, if any, of all such open space areas, as well as the provision for any developmental or maintenance costs. The Town may require that security be posted covering such cost items. The Town Attorney and the Town Board shall approve the amount, duration, form, and manner of execution of said security. A subdivision plat submitted for all or a portion of said development unit shall designate such area as permanent open space and notes shall be attached directly to the plat providing that such areas shall not be subdivided or development in the future.
3. Assessment of taxes on the open space owned by a homeowners association shall be nominal (\$1 per year), the balance of the true value assessment of the open space(s) being divided equitably among owners of the benefiting properties within the PRD or PRRD.
4. The fee in lieu of parkland required by the Town Board and Planning Board for dwelling units in a subdivision shall also be applicable to dwelling units in a PRC or PRRC, unless the parkland and general open space in the PRC or PRRC are available to the general public, in which case the fee shall not exceed half the fee normally required by law.

Please take notice to the extent that this Local Law may conflict with applicable portions of the Town Law and the State of New York, it is the stated intention of the Town to exercise its authority to supersede and amend, as granted

under the Municipal Home Rule Law of the State of New York, Section 10. The Town hereby provides notice that it is exercising its authority to supersede and amend pursuant to Municipal Home Rule Law of the State of New York Section 22.

§ 5.4A Planned Residential Retirement District for the Premises Designated as Section 23, Block 1, Lots 32.2 and 38.3 on the Tax Map of the Town of Deerpark, consisting of approximately 243 acres located on Wilson Road within the Town
(Local Law 4 of 2006, filed with the Town Clerk on August 8, 2006)

Description of Action: Local Law creating a new section of the Zoning Law of the Town of Deerpark within the Town Code.

Reasons for Supporting this Documentation:

1. The anticipated impacts of the action being considered are primarily of local significance; and
2. This agency has the broadest governmental powers for investigation of the impact of the proposed action; and
3. This agency has the greatest capability of providing the most thorough environmental assessment of the proposed action.

Determination of Significance

The Town Board of the Town of Deerpark hereby determines that the enactment of this Local Law will not have a significant effect on the environment and that the proposed Planned Residential Retirement District on the specific tax lots set forth in Local Law No. 3 of 2006 will conform with the Comprehensive Plan of the Town and must proceed through environmental review before the Planning Board of the Town of Deerpark, at which time the Planning Board will assume lead agency status for the specific environmental review of the proposed project.

§ 5.5 Multi-Family Residential Uses

1. Multi-family dwelling projects shall be considered major subdivisions. This “major subdivision” classification shall apply to all subdivisions of property in connection with the development, regardless of whether or not the same are connected with building development, and the approvals required shall be requested and acted upon concurrently as one subdivision. Application for preliminary approval of multi-family dwelling projects, accordingly, will be made to the Town in the manner provided under the Town Land Subdivision Law. The subdivider shall also submit all information required by such Regulations plus the following additional data:
 - a. An application for approval on a form to be supplied by the Town or, in the absence of such form, by a letter or brief from the developer or his or her representative indicating how the development will specifically comply with or meet the criteria set forth herein.
 - b. A proposal plot plan showing the approximate (generally within five feet) locations of all buildings and improvements including parking areas, planting strips (if any), signs, storm drainage facilities, water supply, sewage treatment and collection systems and the specific areas provided as open space in connection with the requirements of this Law. Building layouts, floor plans and profiles shall also be provided indicating building dimensions, numbers, and sizes of units, common ownership or use areas (apart from the open space referenced below), lighting and such other information as shall be required to determine compliance with the design standards contained herein and any other building

Town of Deerpark Zoning Law

standards which may be applicable in the Town of Deerpark. Setbacks from property lines, improvements and other buildings shall also be indicated.

- c. A schedule or plan and proposed agreement(s) either with the Town or a property owners' association for the purpose of dedicating, in perpetuity, the use and/or ownership of the recreation area and open space required by this Law to the prospective dwelling owners or occupants. Such agreement may be incorporated in the applicant's proposed covenants and restrictions, but shall in any event, provide to the satisfaction of the Town that maintenance and use of the property, regardless of ownership, be restricted to either: (1) activities intended for the sole benefit of the occupants of the particular project proposed or, (2) permanent open space as hereinafter provided.
2. The Planning Board shall act on the Preliminary Development Plan and Special Use application concurrently provided an Environmental Assessment is also conducted pursuant to the New York State Environmental Quality Review Act. No building permit shall be issued to the applicant, however, until all conditions attached to the approval of any preliminary Development Plan, shall have been satisfied and nothing herein shall be construed as permitting the issuance of a building permit prior to Preliminary approval. This requirement notwithstanding, the building permit application shall be made with the Preliminary Development Plan and shall, if granted, be valid for a period equal to that for Preliminary Development Plan approval. If the Preliminary Development Plan shall be rejected no building permit shall be granted.
3. Following Preliminary Plan approval, the developer shall provide for the installation of required or proposed improvements including but not limited to streets, parking areas, storm drainage facilities, recreational facilities and lighting **subject to inspection by Town Engineer. Inspection to be paid through escrow accounts.** Building improvements shall similarly be completed or guaranteed prior to the applicant's request for Final Development Plan approval. No Certificate of Occupancy (where the same is required) shall, however, be issued until such time as: (1) Final Development Plan approval shall have been granted in accordance with the procedures and requirements of this Law and (2) buildings have been completed and inspected by the Town Building Inspector.
4. Complete final building plans shall also be submitted as part of the Final Development Plan application.
5. No person shall sell, transfer, lease or agree or enter into an agreement to sell or lease any land and/or buildings or interests in the individual dwelling units to be created, or erect any building thereon except in accord with the provisions of this Law, unless and until Final Development Plan approval shall have been granted (unless the improvements shall have been guaranteed) and the Plan has been recorded in the Office of the Orange County Clerk.
6. Multi-family dwelling density shall be granted a **300%** density bonus above the number of dwelling units per acre which would be permitted within the District if the parcel on which the units are to be constructed were to be developed for one-family residential use. Density shall be calculated by taking the total acreage of the development and deducting the following acreages:
 - a. Land contained within public rights-of-way;
 - b. Land contained within the rights-of-way of existing or proposed private streets. (Where formal rights-of-way are not involved, the width shall be assumed to be fifty (50) feet);
 - c. Land contained within the boundaries of easements previously granted to public utility corporations providing electrical or telephone service;
 - d. All wetlands, floodplains, slopes of 15% or greater grade, water bodies, and other undevelopable areas; and dividing by the number of proposed units.

7. All areas of a multi-family development not conveyed to individual owners, and not occupied by buildings and required or proposed improvements, shall remain as permanent open space or be dedicated to recreation area to be used for the sole benefit and enjoyment of the residents of the particular units being proposed. No less than 50% of the tract shall be used for this purpose and fees in lieu of dedication may not be substituted for such space. Such open space shall be subject to the following regulations:
 - a. No less than 50% of the open space to be provided (25% of the total tract) shall be dedicated to recreational area for the sole benefit and enjoyment of the residents of the particular units proposed. Recreation areas (as distinct from other open space) shall be immediately adjacent (part of the same parcel and contiguous) to the proposed units and freely and safely accessible to all residents of the development. They shall not be used to fulfill open space requirements or provide recreational areas for residents of other units, excepting as provided for in subsection 2 below. They shall be usable for active recreational activities and shall not include wetlands, quarries, slopes over 15% in grade, water bodies or acreage used for improvements such as storm drainage facilities or sewage effluent disposal areas.
 - b. Land designated as open space shall be permanently maintained as such and not be separately sold, used to meet open space or recreation area requirements for other developments, subdivided or developed excepting that a holding zone may be reserved for future development pursuant to density and other zoning requirements as they presently exist, provided such lands are specifically defined and indicated as “reserved for future development” on all Development Plans. Such lands shall not be included in calculating permitted density for the proposed development. These provisions, however, shall not be construed as granting or reserving to the developer any rights or privileges to develop on the basis of a “pre-approved plan” if density or other zoning requirements shall have been modified to preclude such development.
 - c. Open space areas shall be permanently maintained so that their use and enjoyment as open space are not diminished or destroyed. Such areas may be owned, preserved and maintained by dedication to a property owners association which assumes full responsibility for maintenance of the open space and/or deed-restricted private ownership which shall prevent development of the open space, provide for its maintenance and protect the rights of owners or occupants of dwelling units to use and enjoy, in perpetuity, such portion of the open space as shall have been dedicated to recreation area for the project. This is intended to allow the owner/developer to retain ownership and use a portion of the property (for hunting, fishing, etc.) provided the permanence of the open space is guaranteed.
 - d. Whichever maintenance mechanism(s) is used, the developer shall provide, to the satisfaction of the Town Attorney and prior to the granting of any Final Development Plan approval, for the perpetual maintenance of the open space and also the use and enjoyment of the recreation area by residents of the units being approved. No lots shall be sold nor shall any building be occupied until and unless such arrangements or agreements have been finalized and recorded.
 - e. Developments of fifty (50) units or more shall provide one-half (1/2) acre of playground per fifty (50) units unless restricted to adult occupancy only.
8. All multi-family developments shall be served with community wastewater facilities and water supplies. Effluent disposal areas shall also be subject to the setback requirements applicable to other multi-family buildings and structures as a minimum.
9. The following design criteria shall apply to multi-family developments:

Town of Deerpark Zoning Law

- a. There shall be no more than twelve (12) dwellings in each multi-family building.
 - b. No structure shall be constructed within fifty (50) feet of the edge of any access road to or through the development or within ten (10) feet of the edge of any parking area.
 - c. Access roads through the development shall comply with minor street requirements as specified in this Law and no parking space shall be designed such that a vehicle would be backing or driving out onto a through road. Instead, there shall be a defined entrance and exit to and from each parking area.
 - d. No multi-family development shall be served by more than one (1) entrance and one (1) exit from any public highway, unless topography or other physical circumstances would preclude the use of a single entrance in a safe manner.
 - e. Parking spaces of two (2) per unit shall be provided plus, for every two (2) units intended for rental or other transient occupancy, one (1) additional space to accommodate parking needs during sales and other peak visitation periods.
 - f. No more than sixty (60) parking spaces shall be provided in one (1) lot, nor more than fifteen (15) in a continuous row without being interrupted by landscaping. All off-street parking shall be adequately lighted and so arranged as to direct lighting away from residences.
 - g. No structure shall be erected within a distance equal to its own height or any other structure.
 - h. All multi-family structures shall be a minimum of one-hundred (100) feet from any of the exterior property or boundary lines of the particular project involved and seventy-five (75) feet from any public right-of-way.
 - i. Where a property line is not wooded, a planting strip of fifty (50) feet in width shall be required to buffer adjoining property owners and ensure privacy. Similar buffering of areas adjoining County and State highways shall be required. A landscaping plan shall also be prepared and submitted to the Planning Board for approval.
 - j. Multi-family developments shall be subject to the stormwater management requirements of this Law. Facilities shall be designed to accommodate storms of a 25-year average frequency unless a more stringent standard shall be recommended by the Town Engineer. The general performance standard shall be that the amount of uncontrolled stormwater leaving the site along any property line after development shall not exceed that estimated for the site prior to development.
 - k. All electrical and other utilities shall be placed underground and buried to a depth determined by the Town Engineer as sufficient for safety purposes.
10. Maintenance of a multi-family project shall be vested in (1) an association or other legal entity organized prior to the offering of the first unit for occupancy, or (2) a manager, who may be the developer, or a person designated by the developer before the developer offers a unit for occupancy, or (3) the owners or occupants of units themselves if the total number of owners or occupants within the development is not more than five (5). If the developer shall opt to manage the project or designate a manager, the preliminary application shall include financial statements, a description of previous management experience and other data sufficient for the Planning Board to ascertain the financial responsibility of the manager.
11. The association or manager, as the case may be, shall be responsible for maintenance, repair and replacement of the common areas of the development including buildings and, if applicable, the

furniture, fixtures and equipment within the units. The project instruments shall specify the expenses that the maintenance organization may incur and collect from purchasers as a maintenance fee and secure maintenance of the project and enforcement of applicable covenants and restrictions in perpetuity. The Planning Board may require that a Certified Public Accountant review such financial data to determine the proposed fees are, in fact, adequate to secure maintenance on a continuing basis.

12. The developer shall, in filing a Preliminary Development Plan, provide a narrative description of how responsibility for maintenance and care of the units and common areas will be assured and a pro forma operating budget for the maintenance organization including a breakdown of the common expense to be borne by the maintenance organization and a separation of long-term maintenance costs from on-going routine maintenance costs. There shall also be provided a narrative description of how the developer proposes to assure maintenance of the units and common facilities during any sales program. The Planning Board may require additional temporary facilities to accommodate service demands. Copies of all applicable instruments shall be provided, for purposes of determining that long-term arrangements for maintenance of common facilities have, in fact, been made by the developer.
13. Any developer who proposes to construct multi-family dwellings and convey the common elements of said multi-family dwelling project, including recreation areas, to an association of purchasers of units therein shall submit a maintenance bond or other performance guarantee acceptable to the Town Board and Town Attorney ensuring long-term maintenance and repair of said common elements. Such maintenance bond or other guarantee shall:
 - a. Be for a period of not less than fifteen (15) years from the date of the final approval of said multi-family dwelling-transient use by the Town;
 - b. Be in an amount equal to the amount collected or to be collected for long-term maintenance (as indicated in the budget referenced above) by the developer or other responsible parties from each purchaser during the first year after sales to such purchases begin, multiplied by a total number of expected purchasers.
14. If the development shall be subject to the New York State statutes governing the sale of real property used for multi-family occupancy, the developer shall certify as to his or her compliance with said statutes. To the extent the provisions of such statutes conflict with this subsection such certification shall suffice as to conformance with these requirements.
15. Conversions of motels, hotels or other existing structures to multi-family dwelling use regardless of whether such conversions involve structural alterations, shall be considered subdivisions and, moreover, be subject to the provisions of this Law. If the proposed project does involve structural alterations, the Preliminary Development Plan shall include a certification of a registered architect or engineer to the effect that the existing building is structurally sound and that the proposed conversion will not impair structural soundness. However, the conversion of an existing one-family detached dwelling or single family semi-detached dwelling into not more than three (3) residential units shall be exempt from these requirements, unless such units are intended to be a condominium. This shall not, however, exempt an owner from any requirements of the State Building Code or the Town Zoning Law as they may pertain to such activities.

§ 5.6 Conversions of Residential or Non-Residential Structures

Any conversion of a residential structure to a more intensive residential use or a non-residential use shall require **Planning Board approval**. Similarly, the conversion of any non-residential use to multi-family dwellings shall require **a Planning Board approval**. The following additional review criteria shall apply in both instances:

1. **If the use requires a Special Use permit due to the proposed use, this must be secured for approval.**

2. There shall be adequate parking to accommodate the new use in combination with other activities on the property or in the vicinity.
3. There shall be demonstrated sewage treatment and water supply capacity to serve any increased needs connected with the new use.
4. The conversion shall not result in increased residential density exceeding that permitted within the district. If, for example, the minimum lot size is two (2) acres then no more than one (1) equivalent dwelling unit shall be permitted per two (2) acres of lot area.
5. Conversion of a residential structure to a non-residential use shall not be permitted where the new use is not otherwise allowed. Adaptations of any such structure should preserve its architectural integrity and residential character, except for minimal signage, required parking and other features mandated by the nature of the business.

§ 5.7 Sand, Gravel and Quarrying Operations (Extractive Uses)

1. Sand, gravel and other quarrying and excavating industries shall be permitted as Special Uses in the RR, **IB**, and I-I Districts provided the limits of such operations shall extend no closer than five-hundred (500) feet to any existing residence, institution, public water supply source or other public or semi-public facility as mapped by the Town. In the case of blasting operations, this distance may be increased by the Planning Board. The Board may also limit the extension of such operations within or into any aquifer or watershed protection overlay zone that may be designated by the Town of Deerpark to protect a public water supply.
2. All extraction industries shall comply fully with the Mined Land Reclamation Law and provide evidence of such compliance in connection with any Special Use application.
3. The manufacturing or processing of asphalt shall not be considered part of any extraction industry and proposals for such uses, if and where permitted, shall be fully subject to the requirements of this law, notwithstanding preemptions of authority under the Mined Land Reclamation Law.
4. All sand, gravel and quarrying operations shall be subject to the provisions of § 4.3 hereof relating to traffic and the Planning Board may require traffic studies to determine the need for special entrance designs, the construction of acceleration and deceleration lanes, and the like.

§ 5.8 Telecommunication Facilities

1. Purposes:
 - a. To establish clear standards for the siting of telecommunications facilities, buildings and structures, equipment, telecommunication towers and monopoles.
 - b. To promote the health, safety, and general welfare of the residents of Deerpark, through the establishment of minimum standards to reduce the adverse visual effects of telecommunication facilities, including but not limited to, transmission towers and antennas, through the use of advanced technology, care design, siting and screening and buffering.
 - c. To protect residential areas and land uses and property values from potential adverse impacts of towers and antennas.

- d. To encourage the location of telecommunication facilities and communication towers in areas suitably screened, buffered and adequately separated from residential uses.
- e. To minimize the total number of telecommunication facilities and communication towers throughout the community.
- f. To encourage the joint use of new and existing telecommunication tower sites as a primary option rather than construction of additional single-use communication towers, while recognizing the co-location on higher towers is not always preferable to two (2) less visible, less obtrusive shorter towers; thereby maximizing the use of existing communication towers or alternative antenna host sites, while not unreasonably limiting competition among communication providers or unreasonably limiting reception of receive-only antenna.
- g. To require users of telecommunication towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is shown to be minimal.
- h. To require users of telecommunication towers and antennas to configure them in a way that minimizes adverse visual, aesthetic and community character intrusion impacts caused by the installation and view of communication towers and antennas, through careful design, siting, landscaping screening and buffering, sufficient setbacks to reduce visual impacts to adjacent properties, and innovative camouflaging techniques such as alternative tower structures, thereby protecting the physical appearance of the community and preserving its scenic and natural beauty.
- i. To avoid potential damage to adjacent properties from telecommunication towers through careful engineering and appropriate siting of telecommunication towers.
- j. To enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently by facilitating the siting of personal wireless communication facilities.

2. Special Definitions:

Adequate Coverage – Coverage to the minimum standards set forth by the Federal Communication Commission to permit the applicant to operate wireless communication service within the area.

Antennas – A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, wireless and microwave communications.

Alternative Tower Structure – Man-made trees, clock towers, bell steeples, light poles and similar alternative designs including structures that camouflage or conceal the presence of antennas or towers.

Co-location – Siting or mounting of multiple telecommunication facilities used by the same provider, or by two or more competing providers, on the same property, antenna support structure or telecommunication tower.

Wireless Communications Services – The provision of personal wireless communications services, including but not limited to, those more commonly referred to as cellular telephone service, regulated by the Federal Communications Commission in accordance with the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. Section 332(c)(7)(C), or as hereafter amended.

Town of Deerpark Zoning Law

Wireless Communication (Telecommunication) Facility – Any site containing equipment used in connection with the commercial operation of Wireless Communications Services, as defined herein, and as the term “personal wireless services facility” is defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. Section 332(c)(7)(C), or as hereafter amended to transmit and/or receive frequencies, including, but not limited to, antennas, monopoles, equipment, appurtenances and structures.

Minor Wireless Communications Facility – Any wireless communications facility situated (1) on the same property as an existing wireless communications facility designed for co-location and previously approved under this law, or (2) on or in an existing building or other structure; and where the equipment consists of a combination of antennas, or other receiving device, necessary in number to facilitate the provision of wireless communication services from such location, provided that such minor installation: (1) comprises antennas, or transmitting and receiving devices which are not more than six (6) feet in height, which are mounted on supports affixed to an existing structure, and (2) operates with all significant equipment accessory thereto (other than the aforementioned antennas and transmitting or receiving devices, supports and connecting cables), installed in interior space appurtenant to such existing building, tower or structure, or located upon a structure the total combined height of which is less than one-hundred (100) feet from the pre-construction average-finished grades.

Major Wireless Communications Facility – Any wireless communications facility that is not a Minor Wireless Communications Facility, including but not limited to any facilities including wireless communications towers, as hereinafter defined.

Wireless Communications Towers – Any freestanding structure including lattice structures or framework and freestanding self-supported vertical pole (commonly known as monopole) on which any equipment is located in connection with the provision of wires communications services.

3. Compliance with State Environmental Quality Review Act:

The application shall be reviewed under the State Environmental Quality Review Act. An application for approval of a Major Wireless Communications Facility shall constitute a Type 1 action.

4. Restrictions on Use:

- a. No telecommunications facilities except those approved prior to the effective date of these regulations, shall be used, located, constructed or maintained on any lot, structure or land area unless in conformity with these regulations. No existing structure shall be modified to serve as a telecommunications facility unless in conformity with these regulations.
 1. Proposed facilities to first consider Town or Fire Department owned parcels in the required area.
 2. All communication facilities shall at all times comply with the rules and regulations of any government entity having jurisdiction over such telecommunication facilities and uses, antenna and supporting structures and towers, including, without limitation, the FCC and FAA.
 3. All telecommunication facilities shall be operated and maintained by an FCC licensee only.
 4. All telecommunication facilities shall be demonstrated necessary to provide coverage to an area of Town that currently lacks adequate coverage. Related telecommunication towers or antennas shall also be demonstrated to be the minimum height and aesthetic intrusion possible to provide adequate coverage.

5. All telecommunication facilities, if proposed for placement on a lot that is within or abuts a residential district, shall prove that adequate coverage cannot be achieved by siting the facility on a lot which is not or does not abut a residential district.
 6. All telecommunication facilities shall be constructed and maintained in conformance with all building, electrical, fire prevention and other applicable codes.
5. Major Wireless Communication Facilities
- a. Approved Zoning Districts:
 1. Major wireless communications facilities shall be a use permitted upon Site Plan and Special Use approval in zoning districts that permit telecommunications facilities as Special Uses.
 2. If it can be demonstrated by the applicant that there is no site in the above referenced zoning districts which could provide coverage consistent with federal regulations, the Planning Board may determine that a major wireless communications facility may be permitted as a Special Use in another district in accordance with this Law.
 - b. Conditions Precedent to Granting Site Plan or Special Permit Approval
 1. A Service Coverage Map and Report shall be provided. The Coverage Map shall show and describe all existing and proposed areas of service coverage relating to the proposed telecommunications facility. The Service Coverage Map shall locate all existing sites in the Town and in bordering communities which contain telecommunications towers or related facilities. A detailed report shall accompany the Service Coverage Map and shall indicate why the proposed telecommunication tower, equipment and facility are necessary. The report shall identify locations with the proposed project site Service Coverage Area which are not, and could not be, served by either existing facilities, by co-location, utilization of alternative technology or an alternative tower structure.
 2. A long-range Communications Facilities Plan shall be provided, evidencing that the proposed location of the telecommunication facility and supporting buildings and equipment has been planned to result in the fewest number of telecommunications transmission tower locations within the Town. The Plan shall indicate how the applicant intends to provide service throughout the town, and how the applicant plans to coordinate with all other providers of wireless communication services in the Town. The Plan shall address the applicant's planned and possible location of additional tower sites, additional antennas, related service area coverage, and alternative long-range plan scenarios that illustrate the potential effects of multiple towers and tower height, community intrusion impacts and visual and aesthetic impacts.
 3. Documentation sufficient to demonstrate that the proposed telecommunication tower height and bulk are the minimum height and bulk necessary, to provide licensed telecommunication services to locations within the Town which the applicant is not able to serve with existing facilities in the project site area, shall be provided, including evidence that visual, aesthetic and community character intrusion impacts have been minimized to the greatest extent practicable.

4. Demonstration that Shared Use is Impracticable: The Planning Board may issue a permit for a Major Wireless Communications Facility only when the applicant demonstrates that shared use of an existing structure or site is impractical. An applicant shall be required to present a report inventorying all existing structures within one-half (1/2) mile of the proposed site which are at an elevation which renders them potential sites. The report shall describe opportunities for shared use of these existing facilities as an alternative to a proposed new tower. The report shall demonstrate that the applicant used its best efforts to secure permission for shared use from the owner of each existing facility as well as documentation of the physical, technical, and/or financial reasons why shared usage is not practical in each case. The applicant's written request and the property owner's written responses for shared use shall be provided.
5. Commitment for Future Shared Use: New wireless communications towers shall be designed to accommodate future shared demand for reception and transmitting facilities. The applicant shall submit to the Town Board and Planning Board an irrevocable letter of intent committing the owner of the proposed new tower and its successors in interest to permit shared uses of the proposed tower by other telecommunications providers in the future. This letter shall also be filed with the Building Inspector prior to issuance of a Building Permit. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the Site Plan approval following a hearing and opportunity to be heard. The letter shall commit the new tower owner and its successors in interest to the following:
 - a. To notify all carriers licensed to provide telecommunication services within the Town of its application and that it will entertain requests for co-location.
 - b. To respond within ninety (90) days to a request for information from a potential shared use applicant.
 - c. To use best efforts and negotiate in good faith concerning future requests for shared use of the tower by other telecommunications providers.
6. A written certification shall be submitted, prepared by a qualified engineer and/or health physicist which calculates the maximum amount of non-ionizing electromagnetic radiation ("NIER") which will be emitted from the proposed wireless communications facility and demonstrates that any such emissions from the facility will be within the threshold levels adopted by the Federal Communications Commission, as of the day of application and as part of the certification required as part of Section VIII of this Law. The certification shall include a statement or explanation of how compliance was determined; an explanation as to what if any restrictions on access will be maintained to ensure compliance and a statement as to whether other significant transmitting sources are located at or near the transmitting site and, if so, whether their emissions were considered in determining compliance.
7. Siting on lands owned by the Town shall be permitted on any Town parcels, in the discretion of the Town Board.
6. Additional Required Information:
 - a. Procedural: The following procedural information shall be required:
 1. Visual impact assessment:

- a. A viewshed analysis in order to determine locations where the tower and appurtenant facilities may be visible.
 - b. Graphic representations of before and after views from key viewpoints located inside and outside of the Town including, but not limited to, State highways and other major roads, State and local parks, other public lands, preserves and historic sites normally open to the public residential developments and from any other locations where the site is visible to a large number of visitors or travelers.
 - c. Assessment of alternative tower designs and color schemes, as described in Subsection 2 below.
 - d. Assessment of the visual impact of the tower base, guy wires, accessory buildings, and overhead utility lines from abutting properties and streets.
2. Tower Design: A report regarding alternative tower designs which includes lattice and monopole structures and other designs to minimize visual impacts. The Board may request a review of the tower design by a qualified Engineer in order to evaluate the need for, and the design of, any new tower and potential alternatives. All designs to be considered shall be required to include, at a minimum, the following characteristics:
- a. Towers shall be designed to accommodate future shared use by other wireless communication providers.
 - b. Unless specifically required by other regulations, a tower shall have a finish (either painted or unpainted) that minimizes its degree of visual impact.
 - c. No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to company name, phone numbers, banners and streamers.
 - d. Any new tower shall be securely mounted to withstand damage from earthquakes and the wind and ice loads for the place of installation in accordance with New York State Uniform Fire Prevention and Building Code.
 - e. The height of any new tower shall be the minimum height necessary, considering shared use, to meet the minimum requirements of the Federal Communications Commission for coverage of the service area encompassing the Town of Deerpark.

3. Fully Engineering Site Plan:

A site plan showing, at a minimum, all existing roads, buildings, tower(s), guy wires and anchors, antennae, parking and landscaping, and shall include grading plans for new facilities and roads.

4. Engineer's Report:

A report by a New York State licensed professional engineer specializing in electrical engineering with expertise in radio communication facilities and, if a monopole or tower is required or the electrical engineer is not qualified to certify the structural soundness of

Town of Deerpark Zoning Law

the installation, a New York State licensed professional engineer specializing in structural engineering. The report shall, in addition to information required by this Law for site plans, contain the following information:

- a. Approximate location, size and height of all proposed and existing antennae and all appurtenant structures.
- b. The number, type, make, model, transmission power, maximum effective radiated power, manufacturer, and design of the antenna(e) proposed and the basis for the calculations of capacity.
- c. A description of the proposed antenna(e) and all related fixtures, structures, appurtenances and apparatus, including height above grade, materials, color, grounding, and lighting.
- d. The frequency, modulation, and class of service of radio equipment.
- e. Certification that the proposed antenna(e) will not cause interference with existing telecommunication devices.
- f. Elevation drawings depicting the front, side and rear of the property, illustrating the proposed antenna, mounting device and structure, if any, on which the antenna(e) is mounted.
- g. A map depicting and listing all existing sites in the Town and bordering communities containing transmitting antenna(e) used by the operator, owner or applicant.
- h. All applications, telecommunications and permits submitted to and issued by the Federal Aviation Administration.

The Planning Board may, in a proper case, waive one or more of the foregoing requirements set forth in this section and may require additional reports or evidence that it deems necessary to ensure the health, safety and welfare of the community are adequately addressed.

5. Inter-municipal Notification: In order to keep neighboring municipalities informed, and to facilitate the consideration of shared use of existing tall structures in a neighboring municipality, and to assist the continued development of telecommunications for emergency services, the applicant shall provide the following additional notice of application:
 - a. Notification in writing to the municipal clerk of any adjoining municipality within one (1) miles of a proposed site or a greater distance if determined by the Board to be impacted by a proposed new telecommunication tower.
 - b. Notification in writing by certified mail of all landowners within one-thousand (1,000) feet of the property line of the parcel on which the new tower is proposed.

7. Location, Lot Size and Setbacks

Lot size and setbacks: Any proposed wireless communications towers and its accessory structures shall be located on a single parcel and shall comply with setback requirements as identified below:

- a. Distance from Public Facilities: In order to protect the health, safety and welfare of children who may be injured by falling ice or debris, all wireless communication towers shall be a distance of not less than three-hundred-fifty (350) feet from the nearest property line of a school, day-care center, camp, public park, playground, or public road.
 - b. Lot size of major wireless communication facilities sites shall be determined by the amount of land required to meet the setback requirements. If the land is to be leased, the entire area required shall be leased from a single parcel.
 - c. Wireless communications towers shall be located with a minimum setback from any property line equal to the height of the tower in any zoning district, except however, if the applicant can demonstrate that the fall zone for the structure can be safely accommodated on a smaller size parcel or with reduced setbacks to no less than the minimum bulk requirements in the underlying Zoning District, the Planning Board shall have the discretion to reduce the size accordingly. The applicant must demonstrate that there is adequate protection to adjoining properties from the dangers of falling ice or debris through either an easement or other safeguards. The Planning Board shall make findings of fact justifying a reduction and shall impose such additional conditions that the Board may deem appropriate to protect the health, safety and welfare. Accessory structures shall comply with the minimum setback requirements in the underlying Zoning District.
 - d. Additional setbacks may be required by the Planning Board to contain on-site substantially all ice fall or debris from tower failure and preserve the privacy of any adjoining residential and public properties.
8. Vegetative Screening and Fencing:
- a. Landscaping: All telecommunication facilities shall provide landscaping as follows:
 1. All telecommunications towers shall be located and designed to have the least possible adverse visual and aesthetic effect on the environment.
 2. The area surrounding the installation, other than the area necessary to maintain a clear line of sight to the signal source, shall be landscaped and maintained with trees, shrubs, and ground cover to maximize screening and visual buffering. An existing natural vegetative buffer which meets or exceeds the above requirements may be substituted or enhanced for said requirements.
 3. Screening and buffering utilizing trees of a height and density established by the Planning Board that will, over time, reduce visual impacts resulting from the installation of said facility shall be provided.
 4. The outside of security fencing shall be screened with evergreen shrubs, tree, or climbing evergreen material on the fencing.
 5. The base of any telecommunication tower and any accessory structure shall be effectively screened using primarily vegetative screening, including a continuous evergreen screen planted in a natural setting and consisting of native plant species. Existing vegetation shall be preserved to the maximum extent practicable. Additional planting shall be required, as necessary, to screen and buffer all structures from nearby properties or important view sheds of scenic areas. All landscaping shall be properly maintained to ensure continued screening and buffering.
 - b. Security and Safety Fencing: Security and safety fencing shall be located around all telecommunication towers, equipment, and related facilities to restrict unauthorized

access. Access to all structures shall be through a locked gate or principal building. Fencing shall be designed to minimize visual and aesthetic impacts and shall be equipped with appropriate anti-climbing devices. Failure to maintain said safety fencing in an appropriate manner shall be grounds for immediate revocation of all permits and certificates of use by the Building Inspector.

In addition:

1. All telecommunication towers, antenna towers or monopoles, and other supporting structures shall be made inaccessible to non-authorized persons, particularly children, and shall be constructed or shielded in such a manner that they cannot be climbed.
 2. All transmitter controls that could cause the transmitter to deviate from its authorized operating parameters shall be designed and installed in such a manner that they are readily accessible only to persons authorized by the licensee to operate or service them.
 3. All transmitters used with in-building radiation systems shall be designed in such a manner that, in the event an unauthorized person does gain access, that person cannot cause the transmitter to deviate from its authorized operating parameters in such a way as to cause interference to other stations.
 4. All transmitters (other than hand-carried or pack-carried mobile transmitters) and control points shall be equipped with a visual means of indicating when the control circuitry has been put in a condition that should cause the transmitter to radiate.
- c. **Coloring and Marking:** Unless otherwise required by the FAA or FCC, all telecommunication facilities, including antenna and telecommunication towers, shall be colored, camouflaged and/or shielded to blend with surrounding areas, providing such coloring, camouflage and/or shielding do not inhibit their effectiveness. The painting or marking of such facilities shall have a finish or coloring which will minimize visual and aesthetic impacts. Towers and all appendages shall generally have a galvanized finish and shall be painted gray or blue gray, or some other finish or color that is shown to be visually unobtrusive.
- d. **Signals and Lights:** No telecommunication tower, antenna tower or monopole shall include any signals, lights, or illumination unless required by the FAA or other applicable authority. The applicant shall provide evidence mandating any requirement for lighting. If lighting is required, said lighting shall be shown to cause the least disturbance to surrounding properties and views. Any lighting necessary for accessory structures or buildings shall be minimized and shall be properly shielded to prevent light emission and glare onto adjacent properties.
- e. **Signage:** No signs, including advertising signs, shall be permitted on any antenna, telecommunication tower, antenna tower or monopole, or antenna support structure except as follows:
1. Signs specifically required by a Federal, State, or local agency.
 2. Each site shall include a sign containing the name of the owner and operator of any antenna present, including an emergency phone number. In addition, any door having access to a roof-mounted antenna and all entrances to the fenced enclosure shall be similarly signed.

3. Any signage permitted above shall comply with the sign regulation of the Town Code.

9. **Undergrounding of Electrical Power and Noise Suppression:**

All electrical power supply to the on-site buildings and appurtenances supporting the tower antenna operations shall be installed underground. Noise suppression shall be utilized in the structural design and construction of the tower support buildings and appurtenances.

10. **Access and Parking:**
 - a. **Access:** Adequate emergency and service access shall be provided. Maximum use of existing roads shall be provided, public or private, and shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting within the toe of the fill, the tops of cuts or no more than ten (10) feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
 - b. **Parking:** Parking shall be provided on-site in an amount determined by the Board based upon recommendation from the applicant. No parking shall be located in any front yard.

11. **Minor Wireless Communication Facilities:**
 - a. The shared use of existing tall structures (e.g. multi-story buildings, church steeples, farm silos, etc.) and placement upon existing approved towers shall be preferred to the construction of Major Wireless Communication Facilities, including new wireless communications towers and monopoles.
 - b. Minor Wireless Communications Facilities shall be a principal permitted use in all zoning districts within the Town of Deerpark, subject to site plan review. The Planning Board shall, in such instances, be authorized to waive application requirements having no direct bearing on public health or safety and to modify applicable standards to accommodate such facilities.

12. **Requirements of All Approvals:**
 - a. **Removal:** Should any tower cease to be used as a telecommunication facility, the owner or operator or then owner of the land on which the tower is located, shall be required to remove the same within one (1) year from the abandonment of use. Failure to do so shall authorize the Town of Deerpark to remove the facility and charge back the cost of removal to the foregoing parties. The Town of Deerpark may also file a municipal lien against the land to recover the costs of removal and attorney's fees.
 - b. **Operational Certificate:** The owner or operator of any permitted telecommunication facility shall, within forty-five (45) days of initial operation, submit a report from a Professional Engineer certifying that the operation meets all applicable Town, State or Federal regulations and any conditions imposed. Failure to supply such a report shall be cause for immediate revocation of permission to operate the same. The Board may also require periodic inspections and certifications to ensure continued performance.
 - c. **Reimbursement of Review Expenses:** All expenses incurred by the Town of Deerpark in the review of a telecommunication facility application shall be reimbursed by the applicant prior to final approval.

§ 5.9 Signs

1. Purpose: It is the purpose of this section to help residents and visitors find what they need without difficulty; to improve the appearance of the Town; and to promote public safety by regulating the location, quality, construction, and maintenance of signs.
2. Definitions: The following special definitions shall apply for purposes of this action:

Business or Institutional Identification Sign – A sign advertising a business or institution or identifying the business or profession of the owner or occupant of the property on which it is placed.

Commercial Directory Sign – A combination, on a single structure not exceeding eight (8) feet in height, of a sign identifying a business complex with other smaller uniform signs listing businesses on a property. Such signs shall replace freestanding signs which the advertisers would otherwise have rights to place on the property and use no more than twenty (20) square feet in surface area on each side to identify a complex or more than ten (10) square feet on each side to identify a specific business or service.

Contractor Sign – A sign of a builder or contractor which is erected and maintained while such persons are working on a property and is immediately removed when the work is complete).

Digital Billboard Sign – A sign utilizing digital technology for advertisement.

Freestanding Sign – A pole sign or ground sign.

Ground Sign – A sign rising from a ground foundation and not over eight (8) feet in height. The entire bottom of such sign is in contact with or in close proximity to the ground.

Incidental Commercial Sign – An advertising sign on which is located a simple message directed only to persons on the lot, such as a gas pump sign, credit card sign, or pricing sign placed in a window or on a door.

Off-premises Advertising Sign – A sign advertising a business or service located off the premises on which the sign is located.

Pole Sign – A sign supported by a pole(s) as a structure independent of any building. Pole signs are also separated from the ground by air.

Portable Sign – A sign not permanently attached to the ground or a structure and designed to be transported, including signs on wheels, A or T frames, or any other movable device or vehicle.

Real Estate Sign – A sign which advertises the availability of land, buildings or spaces within buildings as being for sale or rent.

Sign – Any device, façade, fixture, material, placard, or structure that uses any color, form, graphic, picture, illumination, symbol or writing to advertise, announce, declare or identify a purpose or entity or to communicate information of any kind to the public outside of a building, including neon or fluorescent painted building outlines and similar devices.

Sign Height – The height of any sign shall always refer to the height of the topmost portion of the sign from grade level, unless the foundation for such sign shall be positioned below the adjoining road grade, in which case the height shall be measured from the road grade.

Surface Area – The size of any sign, computed by multiplying its greatest length by its greatest height. Sign supports or foundations not exceeding three (3) feet in height and not bearing

advertising material shall not be included. The surface area of signs with no definable edges (e.g. raised letter attached to a façade) shall be that area within the perimeter of a single line enclosing the advertising material. The reverse side of any sign may, however, be used without counting toward total sign area.

Traffic Direction Sign – An informational sign on which is located a simple traffic directive directed only to persons on the lot, such as a “no parking”, “loading in rear”, “one-way”, or “office this way” sign.

Wall Sign – A sign painted on or attached flush with a structural wall of a building, including window signs occupying more than fifty percent (50%) of the window or door surface and projecting signs not extending out from the structural wall surface more than eighteen (18) inches.

3. Application: All signs shall meet the standards herein and on the attached Schedule of Sign Regulations. An application for a permit, for any sign requiring one, shall be made on a form supplied by the Building Inspector and submitted with fees required. Applications shall include drawings to scale depicting locations of the signs, methods of illumination, graphic design (including symbols, letters, materials, and colors) and visual message, text copy or content. Written consent of property owners shall also be provided. Applications not requiring a Planning Board finding shall be acted upon within fifteen (15) days of receipt. Applications submitted to the Planning Board shall be acted upon within thirty-one (31) days of receipt and such Board shall have the authority to approve, approved with modifications, or disapprove the application using the review criteria found in § 5.8.4 below. Findings shall be provided to the applicant and set forth in detail the reasons for the action.
4. Sign Review Criteria: Signs shall be approved, approved with modifications, or disapproved based on the specific requirements contained herein and the following design criteria:
 - a. Signs should be a subordinate part of the streetscape.
 - b. Signs should not interfere with views of other enterprises or residences.
 - c. Whenever feasible, multiple signs should be combined to avoid clutter.
 - d. Signs should be as close to the ground as possible and pole signs shall be discouraged in favor of ground signs wherever possible.
 - e. Signs should blend with and not cover any architectural features and be sized and located in proportion to buildings.
 - f. Vivid colors may be used but should not dominate a building or site.
 - g. Signs should be located so as to not interfere in any way with the clear views required for public safety by highway travelers or pedestrians.
 - h. Signs must not present an overhead danger or obstacle to persons below.
 - i. Sign sizes should achieve ready visibility without becoming an unnecessary distraction from the highway view or detriment to the highway scenery.
 - j. Signs should never block the view of other signs.
 - k. Signs should be easy to maintain and provide for wind resistance such that signs will not deteriorate or collapse after an extended period.
 - l. Sign materials and design should blend with surrounding natural landscapes.

- m. Freestanding signs shall generally require landscaping around the sign base.
 - n. Signs should generally not be placed on the roof or above the roof line of the building to which they are attached.
5. General Regulations: The following regulations shall apply to all signs:
- a. Signs shall be permitted only in connection with permitted uses or for the purposes of specifically directing travelers to businesses or services. This shall not, however, prohibit off-premises signs erected for these purposes.
 - b. No part of any sign shall project above the top or beyond the ends of the wall surface on which it is located.
 - c. Signs, other than office traffic signs, which exceed twenty-four (24) square feet in surface area shall be setback at least five (5) feet from the side lot line.
 - d. Advertising signs shall not use the words “stop”, “danger”, or any other word, phrase or symbol in a manner which could be interpreted by a motorist as being a public safety warning or traffic sign.
 - e. No light shall be permitted that by reason of intensity, color, location, movement or directions of its beam may interfere with public safety.
 - f. No sign shall be attached to a tree, utility pole, or object not so intended, except for “no trespassing” signs placed on trees.
 - g. Portable signs shall be subject to all freestanding sign regulations.
 - h. No sign shall exceed in height one-half (1/2) of its distance from the highway right-of-way, notwithstanding any other height limitations.
 - i. Traffic directional signs shall be exempt from these regulations.
 - j. Signs shall be illuminated only by a steady, stationary (except for time and temperature reading) and shielded light source direct solely at the sign, without causing glare for motorists, pedestrians or neighboring premises.
 - k. **Digital billboard signs with LED are only approved** on a case-by-case basis in the IB Zone with a Special Use Permit.
6. Temporary Signs: Temporary signs, including signs advertising yard sales or other non-commercial events may be allowed subject to the following:
- a. Such signs shall be limited to twelve (12) square feet each in surface area and not be illuminated.
 - b. Yard sales and comparable events shall be advertised with signs for no more than twenty-one (21) days per year.
 - c. Other temporary signs shall be erected no sooner than forty-five (45) days before the event they advertise and be removed within three (3) days after such event. A general permit encompassing all signs to be placed in regard to such event (excepting yard sales conducted no more than twice per calendar year) shall be required prior to the placement of any such signs. The applicant shall pay a fee as shall be established by the Town Board plus a Twenty-five Dollar (\$25) refundable deposit to cover the cost to timely removing said signs. Such signs shall:

1. Not be placed on any utility pole or public structure, except for “no trespassing” signs.
 2. Be erected only with express consent of property owners.
7. Non-conforming Signs: Existing non-conforming signs may be repaired or reconstructed on the same site, but shall not be relocated or increased in size except as provided herein. Any non-conforming sign connected with a change of use, abandoned for sign purposes for more than ninety (90) days, damaged to the extent of fifty percent (50%) or more of the replacement cost value, or illegally established shall be immediately removed. In the event such a sign is not removed within thirty (30) days after written notice has been given to the owner of the sign or lessee of the land upon which the sign is located, the Town Board may institute appropriate civil or criminal actions to prevent the violation, abate the nuisance and assess the costs associated therewith to the violator by attachment to the real property tax bill for the parcel in question.
8. Sign Maintenance:
- a. No owner or any sign or lessee or owner of any land upon which the sign is located shall permit such sign to become unsafe, unsightly, or in disrepair so as to endanger the public or to become a public nuisance as shall be determined by the Town Board. Also, any sign referencing a location, business, operation, service, or product which no longer exists or continues to offer service to the public shall be removed within six (6) months of such discontinuance, unless a waiver shall be granted by the Town Board, as the case may be.
 - b. In the event such a sign is not repaired or properly restored or removed within thirty (30) days after written notice has been given to the owner of the sign or lessee of the land upon which the sign is located, the governing body may institute appropriate civil or criminal actions to remedy the violation, abate the nuisance and assess the costs associated therewith to the violator by attachment to the real property tax bill for the parcel in question. The Town Board may also establish annual inspection and licensing requirements for the purpose of ensuring sign maintenance.
9. Real Estate Signs:
(Local Law 6 of 2005, filed with the Town Clerk on September 12, 2005)
- a. Provisions Applicability to All Zoning Districts

One (1) real estate sign, not larger than three (3) feet by four (4) feet on one (1) lot, advertising the sale or letting of only the premises on which it is maintained, set back not less than five (5) feet from the paved edge of the roadway, shall be allowed; except when acreage, available for or in the process of subdivision, is advertised for sale or letting, one (1) real estate sign not larger than three (3) feet high and eight (8) feet long, or four (4) real estate signs three (3) feet high by four (4) feet long, will be permitted on each five hundred (500) feet to one thousand (1,000) feet of frontage, or two (2) real estate signs three (3) feet by four (4) feet on each five hundred (500) or less feet of road frontage. Said three (3) feet shall be construed to mean the height of the sign itself and not the height from the ground or curb line. This regulation shall apply to all zoning districts.
 - b. Prohibited Locations

No sign shall be erected, placed or maintained within the right-of-way lines of any public street, sidewalk or public right-of-way. Any sign violating this subsection may be removed by the Building Inspector/Code Enforcement Officer or any other Town

Town of Deerpark Zoning Law

employee or agent duly designated by the Supervisor without prior notice to the owner. Such removal shall include the sign structure.

c. Penalties

Any person, corporation, business, agency, or entity who shall be found to have violated a provision of this Chapter or Section shall be guilty of a violation and shall be subject to a fine not less than \$250 nor more than \$500 for each offense.

10. Billboards: A sign standing on the ground and usually, but not necessarily, supported from the ground by one or more poles, posts or similar uprights, with or without braces, and advertising products or uses not made, sold, used, or served on the premises displaying such sign.
- a. A billboard shall only be placed on lots which meet the minimum lot and building standards applicable to the district in which it is to be located, and only in the IB Zone.
 - b. A billboard shall be located no less than 10 feet from any property line.
 - c. A billboard shall be no more than 60 feet in height above finished grade. Billboards which exceed 14 feet in height shall be designed and constructed to withstand winds of one-hundred (100) miles per hour, and such shall be certified to by a Professional Engineer or Registered Architect licensed to practice in the State of New York.
 - d. No sign face shall have a vertical dimension in excess of 14 feet or exceed 700 square feet in total area.
 - e. If a lot has the ability to accommodate more than one (1) billboard, the minimum distance between such billboards shall be 200 feet.
 - f. All double-faced billboards shall be Special Permit Uses and uses subject to plan approval by the Planning Board in accordance with the provisions herein.
 - g. If a billboard faces Interstate Route 84, approval shall be obtained from the Senior Right-of-Way Agent in accordance with the New York State Sign Control Program.
 - h. Billboards are to be in accordance with Part 150 of the NYSDOT standards.
 - i. Billboards may only be indirectly illuminated, except that digital billboards may be allowed by the Planning Board. These signs may be Commercial Electronic Variable Message Signs (CEVMS) or Trivision Type billboards.
 - 1. Minimum duration of message shall be six (6) seconds.
 - 2. Maximum brightness shall be 5,000 cd/m² daytime, and 280 cd/m² night time.
 - 3. CEVMS may not be located in such a manner as to obstruct, obscure, or otherwise physically interfere with the effectiveness of an official traffic sign, signal or devise or with the driver's view of approaching, merging or intersecting traffic or interfere with the driver's operation of a motor vehicle as determined by the Town of Deerpark Planning Board.

SEE SCHEDULE OF SIGN REGULATIONS AS THE END OF THIS CHAPTER

§ 5.10 Cluster Development (Conservation Subdivision)

1. The Town of Deerpark Planning Board shall be authorized, pursuant to § 278 of the Town Law and simultaneously with the approval of the Development Plans under the Town of Deerpark Subdivision Regulations, to modify applicable provisions of this Zoning Law so as to accommodate conservation subdivision projects. Also known as “cluster development”, conservation subdivisions offer flexibility in design, facilitate the economical provision of streets and utilities and preserve open space. They shall be allowed anywhere within the Town of Deerpark and be processed pursuant to subdivision Development Plan approval procedures.
2. The Planning Board may require conservation/cluster subdivision, as a form of development, in those instances where conventional subdivisions or residential developments would cause significant loss of open space or otherwise result in significant negative environmental impacts.
3. Conservation/cluster subdivisions provide for one-family or two-family dwelling units wherein dwelling units are grouped in sections in order to maximize the amount of common open space and to preserve the natural settings. Proposed developments shall be processed in the same manner as major subdivisions and in accord with the standards below.
4. Conservation/cluster subdivisions shall include at least five (5) lots and the Planning Board shall have the authority to require an alternative Sketch Development Plan, for any subdivision of ten (10) lots or more, depicting how the property might be developed using this technique. If this alternative Sketch Development Plan is determined to provide a superior design in accord with the purposes of this Law and the same density can be achieved the Planning Board may then require use of this technique.
5. The maximum permitted number of dwelling units shall be determined by deducting from the total tract area:
 - a. All areas within the rights-of-way of an existing or proposed street.
 - b. All areas occupied by public utility easements.
 - c. All wetlands, floodplains, slopes of 15% or more, water bodies and other undevelopable areas.

The net figure shall then be divided by the minimum lot size applicable and rounded to the nearest whole number of dwelling units permitted.
6. Only one-family detached and two-family dwellings shall be employed in this concept. All other dwelling types shall be considered multi-family dwellings.
7. Development standards for lot size, lot width, and lot depth may be reduced, provided no dwelling structure (one-family or two-family) is located on less than 43,560 square feet of land where on-site sewer and water facilities are to be provided, or 10,000 square feet of land where community wastewater and water facilities are to be provided; and further provided the total density (in individual dwelling units) for the tract shall not exceed that which would result from a conventional subdivision plan designed in accord with this Law plus a bonus of up to 20%, as determined from the basic Sketch Plan submission. Yard requirements may also be reduced, but in no instance to less than twenty (20) feet.
8. No individual parcel of common open space shall be less than one (1) acre except as to roadway median strips, traffic islands, walkways, trails, courtyards, play areas, recreation facilities, drainageways leading directly to streams, historic sites, or unique natural features requiring common ownership protection. No less than 50% of the total land area of the conservation

subdivision shall be dedicated to permanent open space and at least 25% of such open space shall be usable for active recreational activities by residents of the subdivision and not include water bodies, wetlands, floodplains, slopes over 15% in grade, or other undevelopable areas.

9. The open space resulting from conservation subdivision design shall be permanently protected through a conservation easement titled to a property owner's association (POA), land conservancy, municipality or similar entity, prior to the sale of any lots or dwelling units by the subdivision. Membership in any POA shall be mandatory for each property owner within the subdivision and successive owners with voting of one vote per lot or unit and the subdivider's control, therefore, passing to the individual lot/unit owners on sale of the majority of the lots or units. All restrictions on the ownership, use and maintenance of common open space shall be permanent and the POA shall be responsible for liability insurance, local taxes, and maintenance of all open space, recreational facilities and other commonly held amenities. Each property owner must be required to pay their proportionate share of the POA's cost and the POA must be able to file liens on the lot/unit owner's property if levied assessments are not paid. The POA must also have the ability to adjust the assessment to meet changing needs.

§ 5.11 Upper Delaware River Provisions

Areas within the boundaries of the RRC Recreational River Corridor District or the Upper Delaware National Scenic and Recreational River shall be subject to the following requirements:

1. Potential impacts on the River from stormwater runoff and waste disposal shall be assessed in connection with any Special Use proposed within the corridor.
2. Junkyards and salvage operations, airports, solid waste disposal sites, and manufacturing shall not be permitted in the RRC Recreational River Corridor District.
3. New outdoor recreation facilities shall be limited to those which are designed for relatively short use periods and do not provide other than rudimentary visitor services or include infrastructure development other than as required to meet State health codes. Major commercial recreational development which could have significant impacts on land and water resource values, including but not limited to amusement parks, drive-in theaters, auto race tracks, sports arenas, etc. shall not be permitted in the corridor.
4. Where permitted, small hotels and motels (those with 12 or fewer rooms) within the corridor shall be located adjacent to arterial roads and designed to be compatible with the natural and scenic characteristics of the River corridor.
5. All Special Uses shall be subject to a determination by the Planning Board that the proposed activity will conform with the recommendations of the Upper Delaware River Management Plan.
6. All lots shall be a minimum of two (2) acres in lot area.
7. No structure shall be constructed on a lot with a slope in excess of fifteen (15%) grade without site plan approval from the Planning Board, and no more than ten (10%) percent of the area of any lot with a slope in excess of fifteen (15%) percent shall be covered with an impervious surface or be stripped of vegetation at any one time. Slopes over fifteen (15%) percent may be used for forestry or agricultural purposes.
8. A maximum of twenty (20%) percent of any lot shall be cleared of vegetation for building purposes where the natural slope is less than ten (10%) percent. No more than fifteen (15%) percent of the lot area shall be cleared for building purposes where the natural slope exceeds ten (10%) percent.

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9. No wastewater treatment system shall be located closer than one hundred (100) feet of the base flood elevation of the Bashakill, Neversink, Mongaup, or Delaware Rivers.

§ 5.12 Animal Husbandry, Animal Hospitals and Commercial Agriculture

The following additional standards must be met in conducting animal husbandry and commercial agricultural operations:

1. No offensive odor or dust producing substance or any use producing incessant odor or dust may be permitted within one-hundred (100) feet of any property line.
2. In districts where animal husbandry is allowed a Special Use permit is necessary where animal husbandry is in excess of one (1) livestock unit per acre of land. A livestock unit shall, for purposes for this Law, be one cow, two calves, two horses, two ponies, two pigs, two goats, two sheep, one-hundred fowl or fifty rabbits. Livestock units for unspecified animals shall be determined by the Planning Board on a case by case basis, using these numbers as a guide.
3. Any animal husbandry use shall require a minimum of three (3) acres and minimum front, rear, and side yards of fifty (50) feet each.
4. Boarding or livery stables, riding academies and breeding farms shall require a minimum of ten (10) acres and minimum front, side, and rear yards of two-hundred (200) feet. Within the Recreational River Corridor District, such uses shall conform to the River Management Plan and shall be subject to Special Use review.
5. Animal hospitals, veterinary offices, commercial or not-for-profit kennels shall be prohibited in the Recreational River Corridor District; and in those districts where permitted shall be subject to the Town of Deerpark Dog Control Law (Local Law No. 13 of 2000, as amended) and the following standards:
 - a. The minimum lot size for an animal hospital and a veterinary office shall be two (2) acres.
 - b. The minimum lot size for a commercial or a not-for-profit dog kennel (a structure used for harboring 5 or more dogs or cats with or without attendant commercial services such as grooming, breeding, or veterinary care) shall be ten (10) acres.
 - c. No kennel, runway, or exercise pen shall be located within two-hundred (200) feet to any lot or street line.
 - d. No building or part thereof shall be erected nearer than fifty (50) feet of any lot line.
 - e. Animals shall be kept within a totally enclosed and suitably ventilated building between the hours of sundown and sunrise.
 - f. The keeping or boarding of any dogs by a veterinarian shall conform to the requirements for a commercial kennel.

§ 5.13 Camps and Conference Centers

1. Camps shall provide a minimum of 10,000 square feet per cabin site and the same for each principal building.
2. No tent, activity area, or recreational facility shall be located nearer than one-hundred (100) feet from any public road and one-hundred (100) feet from any adjoining property line.

3. Buildings and sleeping quarters (except tents) shall be setback thirty (30) feet distance from each other; and tents shall be set a minimum of ten (10) feet apart.
4. Accessory recreational facilities shall be setback two-hundred (200) feet from all lot lines and shall be effectively screened along lot lines as required by the Planning Board.
5. If floodlighting is used, exterior lighting shall be restricted to that essential for the safety and convenience of the users of the premises. The source of illumination shall be shielded from the view of surrounding streets and lots.
6. The Planning Board may permit the use of outdoor public address systems, provided that no more sound shall carry beyond the limits of the camp site than would be inherent in the ordinary residential use of the property **and in accordance with the noise ordinance**.
7. All provisions of the Sanitary Code or such other regulations of the County Health Department pertaining to camps and their sanitary facilities must be met.

§ 5.14 Hotels, Motels and Resorts

Hotel, motel and resort establishments, where permitted, shall require **site plan review and approval** by the Planning Board and be subject to the following standards:

1. A site to be used for a motel, hotel, or resort establishment shall include an office and lobby and may include accessory uses as follows: restaurants, coffee shop or cafeteria providing food and drink, amusement and sport facilities such as a swimming pool, children's playground, tennis, or other game sports, and game or recreational rooms.
2. Individual hotel, motel, and resort rooms shall not contain kitchen facilities of any nature, and shall not be used as apartments for non-transient tenants or other single-room occupancy residential uses.
3. No hotel, motel, or resort use shall be permitted which is intended to accommodate activities of a health care, rehabilitative or medical nature. Such facilities shall be considered separate uses and limited to those zoning districts where specifically permitted by listing on the Schedule of District Regulations.
4. **A hotel is a building containing rooms used for overnight accommodations of those in transit, or for a short-term or extended business stays, or short term person stays. Single-room occupancy residential projects will not be considered to be hotels but shall be considered to be multi-family dwellings under the provisions of the Zoning Law. A hotel may have facilities that provide meals and other services within the main building or in an accessory building located on the hotel site.**

§ 5.15 Adult Uses

1. Findings: There is presently in Orange County a substantial growth in the number of adult entertainment uses and an increasing trend toward the concentration of adult entertainment establishments. Based upon recent studies evaluating the nature and extent of adverse secondary effects caused by adult uses in residential and commercial areas, including a 1996 study by the City of Newburgh, a 1994 study by the City of New York, and a 1980 study by the City of Islip, the Town Board hereby finds that adult uses have negative secondary impacts such as a deterioration of community character and quality of life, depreciation of property values, increase

in crime rates, and the blighting or downgrading of surrounding neighborhoods and commercial uses.

2. Purpose: In the development and execution of this Section, it is recognized that there are some adult uses which, because of their very nature, are recognized as having serious objectionable characteristics. The objectionable characteristics of these uses are further heightened by the concentration in any one area, thereby having deleterious effects on adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of surrounding neighborhoods or land uses, increase crime or police calls, contribute to the spread of prostitution and AIDS, increase the quantity of transients in residential and commercial areas, cause a deterioration in the quality of life in residential neighborhoods, increase the accessibility of adult oriented material and entertainment to minors, and encourage residents and businesses to locate elsewhere.

3. Definitions: As used in this Law, the following terms shall have the meanings indicated:

- a. Adult Use – A use of a building or property for a business which as adult materials as a significant portion of its stock-in-trade or involves the sale, lease, trade, gift, or display of drug paraphernalia. Adult materials include any literature, book, magazine, pamphlet, newspaper, paper, comic book, drawing, computer or other image, motion picture, sound recording, article, instrument, display, or any other written or recorded material which depicts or describes: (a) any nudity; or (b) the specific sexual activities listed herein. The Town shall also rely upon the general meaning given to these two terms by the State of New York and in the various decisions of the U. S. Supreme Court referenced herein, should further clarification be required.

For purposes of this Law, adult oriented businesses shall also mean any nightclub, bar, tavern, restaurant, eating and drinking establishment, arcade, theater, motel, hotel, or any other establishment that regularly features, for economic gain or other consideration, entertainment in any form which is characterized by nudity or the depiction or display of specified sexual activities. This shall not exempt such a business from any requirements of this Law or limitations on public displays of personal nudity. Nothing in this definition shall be construed to incorporate breast-feeding, single-sex rest rooms and showers, or items and displays of recognized artistic merit as previously interpreted by the U. S. Supreme Court or activities in a private residence by the occupants thereof.

- b. Nudity – The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

- c. Specified Sexual Activities:

1. Human genitals in a state of sexual stimulation or arousal.
2. Acts of human masturbation, sexual intercourse, or sodomy.
3. Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.

- d. Specified Anatomical Areas:

1. Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately about the top of the areola.
2. Human male genitals in a discernible turgid state even if completely and opaquely covered.

4. Separation Requirements Applicable to Adult Uses: Adult uses shall be limited to existing I-I Industrial Districts. They shall be considered Special Uses subject to Site Plan review. Because adult uses can lend themselves to ancillary unlawful and unhealthy activities, they shall also be separated from other uses that could be severely impacted by their presence or that, in combination with the adult uses, accentuate the negative impacts on the area. These distances shall be measured in a straight line, without regard to intervening obstacles, from the nearest portion of the structure incorporating any aspect of the adult use to the nearest property line of the premises incorporating any of the above listed uses.
 - a. No adult use shall be located within a two-hundred (200) foot radius of any other residential or commercial zoning district or another adult use.
 - b. No adult use shall be located within a one-thousand (1000) foot radius of the property of any residence, residential facility, institution, health facility, child care center, church, synagogue, other place of religious worship, school, public or semi-public use, public park or recreation facility, youth oriented center, playground or playing field, cemetery, or any establishment that sell alcoholic beverages.
5. Exterior Display Prohibited: No adult use shall be conducted in any manner that allows the observation of any material depicting, describing, or related to specified sexual anatomical areas from any public way. This provision shall apply to any display, decoration, sign, show window, or other opening.
6. Signage: Adult use signage shall be limited to one (1) approved ground sign not to exceed a surface area of thirty-six (36) square feet for both sides combined **and requires Planning Board approval of sign content.**
7. Non-Conforming Buildings: No non-conforming building or lot shall be used for an adult use.
8. Activities: Because they are known to encourage prostitution, increase sexual assaults and attract criminal activity the following activities shall not be permitted in any adult oriented or other business or any other public place within the Town of Deerpark:
 - a. Public appearance by a person knowingly or intentionally engaged in specified sexual activities.
 - b. The knowing and intentional public appearance of a person in a state of nudity.
 - c. Touching of patrons or the performance by any entertainer in an adult use facility within six (6) feet of the nearest patron.
 - d. Sale of alcoholic beverages.
9. Loudspeakers: No loudspeaker or similar audio equipment used to describe or discuss specified anatomical areas or specified sexual activities shall be audible beyond the exterior of the structure in which it is located.

§ 5.16 Vehicle Junkyard and Wrecking Facilities

1. Purposes: These regulations are enacted for the purpose of establishing minimum health and safety standards for junkyards in the Town of Deerpark as well as controlling their location. They are enacted pursuant to the authority granted towns by § 136 of the General Municipal Law and § 136.1 of the Town Law.

Town of Deerpark Zoning Law

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2. Scope: These regulations shall apply to all junkyards now or existing or hereafter proposed in the Town of Deerpark. No junkyard shall be created except in conformance with the standards herein, and all junkyards shall be required to conform to said standards or be removed at the owner's expense. Existing junkyards may be transferred to a new owner subject to a new license application.
 3. Exemptions: The following land uses shall be exempt from these requirements provided they are not maintained in the manner of a junkyard and do not include a junkyard operation:
 - a. Storage areas for officially recognized and operable antique or classic automobiles or other operable special purpose vehicles.
 - b. Agricultural equipment which is utilized as part of an active farming operation or contractor's construction equipment which is part of an active contracting business.
 - c. Automobile repair businesses or automobile, vehicle, and equipment sales operations managed by State licensed dealers.
 4. Definition: The term "junkyard" shall mean:
 - a. An area of land, with or without buildings, used for storage, outside a completely enclosed building, of used materials, including but not limited to wastepaper, rags, metal, glass, building materials, house furnishings, machines, wire, pipe, mobile homes, recreational vehicles, appliances, automotive vehicles or parts thereof, with or without the dismantling, processing, salvage, sale or other disposition of the same.
 - b. Any place where two (2) or more old, secondhand, abandoned, partially disassembled, dilapidated or unlicensed vehicles or parts of vehicles, no longer intended or in condition for legal operation on the public highways, are stored outside for any purpose for a period of six (6) months or more. The Town of Deerpark Building Inspector(s) shall determine when a vehicle or part thereof shall meet these conditions and it shall be the burden of the landowner in such instance to demonstrate conclusively, within a period of seven (7) days after notice, that a vehicle is legally operable at the present time if he or she shall disagree with the Building Inspector's determination.
 - c. Ancillary businesses located on a junkyard lot or lots that are part of the same site and site plan if one is a matter of record, including but not limited to vehicle and equipment sales, rental operations, repair operations, other sales activities, services and processing operations; whether or not directly related to the primary junkyard function.
 5. License Required: No person, partnership, association or corporation, being the owner or occupant of land within the Town of Deerpark, shall use or allow the use of such land for a junkyard unless a license has been obtained and maintained as herein provided, which license shall be applied for concurrently with application for site plan review and Special Use approval hereunder. The Building Inspector shall issue a license within ten (10) days after approval of the application by the Town Planning Board pursuant to these criteria. Said license shall be effective from the date of issuance until surrendered by the licensee or revoked by the Building Inspector and shall be renewed annually based on inspection by the Building Inspector and approval by the Town Board as to continued compliance with these standards. The Town Board may issue temporary, conditional, or any period length under five (5) years that they consider appropriate. No license shall be issued until the Building Inspector has received:
 - a. A written application from the applicant on the form provided by the Town Building Inspector.

Town of Deerpark Zoning Law

- b. The required fee as herein provided. Such fees shall be set by resolution of the Town Board.
6. Transfer of License: The license may be transferred to a new owner of a junkyard provided all of the requirements of this Law pertaining to **the existing** junkyard are met and a new application is submitted.
7. Disapprovals: Any disapproval shall be in writing and include the reasons therefore. The Building Inspector shall not issue a license in any instance where the Planning Board has not approved the site plan and given special use approval.
8. Right to Enter and Inspect: The Building Inspector shall enforce all of the provisions of this Law and shall have the right, at all reasonable times, to enter and inspect any junkyard. The Town Board shall specify the frequency of such inspection, but no less than four (4) times per year, and set fees by resolution to cover costs involved.
9. Orders to Correct: If the Building Inspector finds that a junkyard for which a license has been issued, is not being operated in accordance with the provisions of this Law, he may serve, personally or by certified mail to the holder of the license, a written order which will require the holder of the license to correct the conditions specified in such order within ten (10) days after the service of such order **or a longer time specified by the Building Inspector**.
10. Suspension of License: If the holder of such license shall refuse or fail to correct the condition or conditions specified in such order within ten (10) days, **or at another time required specifically**, after the service of such order, the Building Inspector may suspend such license and the holder of the license shall thereupon terminate the operation of such junkyard.
11. Expiration of License: Any license which is not used for the purpose intended within twelve (12) months of the date of issuance shall automatically expire and the junkyard shall be removed in its entirety.
12. Standards Applicable to New Junkyards: All new junkyards shall conform to the following standards:
 - a. No part of any junkyard shall be located closer than **one-hundred (100)** feet to an existing public right-of-way or adjoining property line, or one-thousand (1000) feet to a church, school, health care facility, public building, or place of public assembly.
 - b. New junkyards shall, moreover, be permitted only in the Industrial (I-I) District.
 - c. All new junkyards must erect and maintain an eight (8) foot fence or dense natural screening along the boundaries of the property adequate to discourage the entrance of children or others into the area and to contain, within such fence, all materials in which the owner or operator deals. Such fence or screening shall also substantially screen the junkyard from public view and otherwise comply with the requirements of § 136 of the General Municipal Law.
 - d. No junkyard shall be used as a dumping area for refuse or as a place for the burning or disposal of trash.
 - e. All dismantling operations shall take place inside an enclosed structure **or screened in area** and any parts of vehicles or equipment shall similarly be stored inside an enclosed structure. All vehicles awaiting dismantling or retained for sale or use intact shall be **buffered as required in this section from the junkyard as a whole**.

Town of Deerpark Zoning Law

- f. The Planning Board, in acting upon the Special Use application for any new junkyard, shall consider aesthetics and the impact on surrounding property consistent with the demands of § 136-7 and 8 of the General Municipal Law.
 - g. All waste oils and similar waste products shall be stored and/or disposed of consistent with local and State requirements and best industry practices.
13. Standards Applicable to Existing Junkyards: All existing junkyards shall conform to the following standards to be administered by the Town Board based on the inspection and report of the Building Inspector as to compliance with the standards of this Law:
- a. Existing non-conforming junkyards shall, within a period of one (1) year following the effective date of this Law, be removed unless a license shall have been obtained for continued operation and the facility has been made to conform to the regulations provided below.
 - b. Applications for licenses to continue operating existing non-conforming junkyards shall, unless the owners thereof have indicated in writing their intention to discontinue operations as provided above, be made within one (1) year following the effective date of this Law. All licenses shall, thereafter, be renewed **by July 1 for every five (5) calendar years.**
 - c. Applications for licenses to continue operation of existing non-conforming junkyards shall include a site plan depicting the existing operation and any planned improvements as may be required by this Law.
 - d. All existing junkyards shall include an eight (8) foot high fence along the side and rear boundaries of the property adequate to discourage the entrance of children or other into the area and to contain, within such fence, all materials in which the owner or operator deals. Fencing and screening shall fully comply with all requirements applicable to **existing** junkyards. Yard requirements applicable to new junkyards shall not be further violated.
 - e. All fencing must be approved by the Town Board and produce a screen through which one generally cannot see. Various materials, including evergreen screening, may be used. The Town Board shall also take measures, such as securing injunctive relief, to ensure maintenance of such fencing or screening.
 - f. The license application shall include other information as may be required to determine compliance with these regulations. The Town Board, in acting upon the application, shall consider the following:
 - 1. Impacts of the use on the enjoyment and use of adjoining properties and the community.
 - 2. The effectiveness of screening available or to be provided, visibility from the highway or **adjacent properties** and the extent to which the operator's plans address various health, safety and aesthetic concerns.
 - 3. The extent to which dismantling operations can or do take place inside an enclosed structure and whether or not all parts of vehicles or equipment are similarly stored inside an enclosed structure. **The Town Board has the right to approve temporary or conditional approval as it sees appropriate.**

14. Existing junkyards shall not be expanded except in conformance with the regulations. Any person or persons proposing to establish or expand a junkyard in the Town of Deerpark shall prepare site plans of the same to be submitted to the Planning Board under Special Use/Site Plan review procedures. The Planning Board can approve or deny any such application as per their consideration of 13f(1-3) above. The Planning Board can consider waiving area and distance requirements for expansion of existing junkyards. Continuous screening will be required as per the Planning Board.
15. Junkyard Application Standards: All applications to operate junkyards in the Town of Deerpark shall include criminal records with respect to the applicant(s), including any owner with a 5% or more ownership. Should such criminal records reveal convictions for larceny or receiving stolen property, such application shall be denied. This procedure shall apply to both original license and transfer applications. Applications shall in other respects comply with Special Use and Site Plan Review procedures.

§ 5.17 Continuing Care Facilities

1. Purposes: The purpose of this section is to permit continuing care facilities as Special Uses within Hamlet Mixed/Use (HM-U) Districts. This law is intended, under the authority given to the Town of Deerpark by Section 10 of the New York State Municipal Home Rule Law, to supersede the provisions of the New York State Town Law as follows:
 - a. Sections 274-a, 274-b, and 276 of the Town Law are superseded to combine these requirements into a single set of provisions with respect to continuing care retirement communities, where special use, site plan review, and subdivision review and approval take place concurrently and both preliminary and final plans are required as provided under Section 276.
 - b. Sections 274-a and 274-b of the Town Law are superseded to make the established time periods for hearings and actions on plans coincide with those for subdivision plats under Section 276, excepting that Section 276.5(h) shall also be superseded to change the time to submit a final plat following preliminary plat approval from six (6) months to five (5) years, with extensions subject to approval from the Planning Board to permit phased development.
 - c. Section 276.7(c) is superseded to change the duration of a conditionally approved final plat from one-hundred-eight (180) days, with two ninety (90) day extension, to five (5) years following preliminary plat approval with extensions subject to approval from the Planning Board to permit phased development.

2. Special Definitions:

Continuing Care Facility – A residential development, facility or facilities established with the primary purpose of providing individual of sixty (60) years or more in age, or households where the head of household is sixty (60) years or more in age, comprehensive, cohesive living arrangement oriented toward the enhancement of the quality of life and which, pursuant to the terms of a continuing care contract, offers independent living units and board combined with a range of health care and social services subject to the terms of the contract. A continuing care facility may include a continuing care retirement community, as provided under the laws of the State of New York or a combination of the following:

Assisted Living – A single facility offering coordinated array of supportive personal and health services, available 24 hours per day, to protect residents of sixty (60) years or more in age who have temporary or periodic difficulties with one or more essential activities of daily living, such as

feeding, bathing, dressing, or mobility. This definition includes adult care facilities licensed by the State of New York.

Enriched Housing – An adult care facility established and operated for the purpose of providing long-term residential care to five (5) or more adults, primarily persons sixty (6) years of age or older, in community-integrated settings resembling independent housing units. Such program shall provide or arrange the provision of room, and provide board, housekeeping, personal care, and supervision.

Nursing Facility – Food, shelter and 24 hour nursing and medical care provided to chronic or convalescent patients, including intermediate, skilled and sub-acute levels of such care and customary accessory uses such as dining rooms, bathing areas, common areas, offices, clinics, therapy areas, medical facilities, and other space necessary to provide these services.

3. Standards:

a. A continuing care facility may, in addition to the facilities required below, include:

1. One-bedroom apartments with a minimum of five-hundred (500) square feet and a maximum of one-thousand-two-hundred (1200) square feet in floor area. The one-bedroom apartment shall include, but not be limited to, a bathroom, bedroom, dining/living room, kitchen, and closet space. Each one-bedroom apartment shall have its own separate heating and air conditioning units.
2. Two-bedroom apartments with a minimum of nine-hundred (900) square feet and a maximum of one-thousand-three hundred-fifty (1350) square feet in floor area. The two-bedroom apartments shall include a bathroom, two (2) bedrooms, dining/living area, kitchen, and closet space. Each two-bedroom apartment shall have its own separate heating and air conditioning units.
3. Concierge services, housekeeping, laundry, banking, dry cleaning (pick-up and delivery), 24 hour security service, and temporary controlled indoor courtyard.
4. Recreation, cultural, and medical facilities for the sole use of residents of the community and their guests, which may include dining rooms, a library, arts and crafts studios, a business/computer center, pool, bistro, hairdressing facilities, lounges, a theater, inside convenience store, indoor and outdoor recreational facilities, a fitness or wellness center, courtyards, pavilions, picnic facilities, and other customary accessory uses. Nothing herein, however, shall restrict the use of continuing care facilities for public purposes such as community events, use as a local library or recreation activities of a non-commercial nature.

b. Area, Yard, and Building Requirements: No building, structure, or land shall be used or erected, altered, enlarged or maintained except for continuing care facilities within the area which is in accordance with a preliminary site plan and/or subdivision plan approved by the Planning Board. Such site development plan shall meet at least the following minimum requirements:

1. Minimum Area: The minimum area for a continuing care facility shall be twenty (20) acres, provided that an area of less than twenty (20) acres may be added to an existing continuing care facility if contiguous and otherwise in compliance with these regulations.
2. Residential Density: Gross density for a continuing care facility shall not exceed eight (8) dwelling units per acre of buildable land for independent living units. Additionally, no less than two (2) and nor more than three (3) beds each of assisted living and long-term care shall be provided for each ten

(10) independent living dwelling units permitted on-site, provided the total number of dwelling units and beds for the continuing care facility does not exceed twelve (12) units or beds per acre of buildable land. No more than 40% of slopes over 25% in grade, 10% of floodplain areas, and 10% of wetland areas shall be included in calculating buildable for purposes of density calculations.

3. Impervious Coverage: No more than fifty percent (50%) of the gross area shall be covered by impervious surfaces.
4. Maximum Building Height: Three (3) stories or thirty-five (35) feet, except mechanicals, elevator shafts, and the like. Elevators shall be required for all structures of two (2) or more stories in height.
5. Fire Protection and Ambulance Services: No application for a continuing care facility shall be approved unless and until the appropriate officer of the applicable Town fire district(s) shall have: (a) reviewed the plans and the site; (b) determined the district firefighting equipment can provide adequate coverage for the community; and (c) found that there are no major obstacles in the design or layout of the facility to providing fire protection. The applicant shall document to the fire district and the Planning Board, that there is a water supply, storage, and distribution system with sufficient capacity to meet the firefighting needs associated with the development in accordance with ISO or other guidelines established by the Planning Board. These facilities shall be located on the site and convenient for easy access. A fire lane of no less than twelve (12) feet in width shall be provided surrounding all assisted living, independent living, and long-term care buildings.

If the fire district, or any other department of the Town of Deerpark, lacks the specific equipment, facilities, or training needed to serve the continuing care facility, the Town shall be authorized, through its Planning Board, to require as a condition of special use and site plan approval, a financial contribution from the applicant toward providing that equipment, facilities, or training. Such contribution shall be reasonable and directly related to the costs of serving the community. Ambulance services for residents of any continuing care facility shall be provided by and paid for by the applicant.

6. Setbacks from Tract Boundary: No building or structure, other than entrance gatehouses, walls or fences, shall be located within one-hundred (100) feet of any exterior boundary line of the tract, except that the Planning Board may modify this requirement where existing topography, vegetation, and landscaping or improvements such as planted earthen berms mitigate any impacts on neighboring properties.
7. Building Separation: All principal buildings shall be separated by a distance equal to their height, with a minimum separation of twenty-five (25) feet.
8. Water and Sewerage Facilities: No individual wells or individual sewage disposal systems shall be permitted, and each building shall be serviced with said utilities by a community wastewater or disposal system approved by the Board of Health, New York State Department of Environmental Conservation, and other controlling agencies. Such system facilities shall be subject to design review and buffering to minimize aesthetic impacts. No building permit shall be issued unless and until plans for such facilities have been approved by the proper authorities and adequate provisions are made to ensure that such necessary facilities shall be installed.

The water and sewer facilities shall not adversely affect the groundwater supply and quality in the area or on nearby properties. Pump tests demonstrating that there will be no adverse impacts on nearby wells shall be submitted to the Town of Deerpark by the applicant prior to construction of the project. Any water tanks shall be located at least five-hundred (500) feet from any existing residential structures. Should a property owner within five-hundred (500) feet of the development boundary request or require water connection because their well has been affected and the pump test documentation to this effect is satisfactory to the Planning Board, then the applicant shall connect them at no cost.

The potential for sewer connections to adjoining properties shall be investigated at the time the application is reviewed and the Planning Board shall be authorized to require provision of reserve capacity to serve such owners.

9. Building Size: No building within a continuing care facility shall exceed three-hundred (300) feet in length or width. Buildings in excess of one-hundred-fifty (150) feet in dimension shall include breaks in the building planes and ridges every forty (40) feet.
 10. Parking and Loading Requirements: No less than one (1) parking space per independent living unit and one (1) parking space per employee on the largest shift shall be provided for the continuing care facility. These requirements may be modified by the Planning Board where evidence, submitted from a competent authority regarding projects of similar design, indicates a greater or lesser number of spaces may be needed. Loading spaces shall comply with requirements of this Law pertaining to commercial uses.
 11. Accessory Structures: Accessory structures shall not be permitted in front yard areas. No accessory structure shall have a building height of thirty-five (35) feet or be located within twenty-five (25) of any principal structure, except for garbage containers, tool sheds, or similar structures that do not obstruct a fire lane.
- c. Occupancy Restrictions: A continuing care facility shall be restricted in occupancy to persons of sixty (60) years or more in age and immediate members of their household who are at least eighteen (18) years of age. This restriction shall be a condition of approval and incorporated into restrictive covenants and management plans for the continuing care facility. Copies of such restrictive covenants, which shall not be changed without the approval of the Town of Deerpark, and management plans shall be submitted as part of the Special Use application.
 - d. Environmental Review: A continuing care facility, because of its large scope by definition, shall be considered a Type I action for purposes of review under the New York State Environmental Quality Review Act (SEQRA) and to have a significant impact on the environment, requiring the preparation of an Environmental Impact Statement. A public hearing on the Draft Environmental Impact Statement shall take place prior to action on the Special use application so as to permit the attachment of any specific conditions required to mitigate environmental impacts.
 - e. Health Care Requirements: A continuing care facility shall operate in strict accordance with any applicable health care requirements of New York State, as shall be evidenced by possession of any required licenses from controlling State agencies. The lack of such licenses, where required, shall render Special Use approval from the Town of Deerpark null and void. The revocation of such licenses shall terminate any rights an applicant or owner of a continuing care facility may have to operate in the Town of Deerpark and require the resubmission of plans in the form of a new Special Use application. A

continuing care facility shall have a medical director licensed to provide services in the State of New York.

- f. **Phasing and Renewal of Approval:** A continuing care facility project may be phased. Special Use, site plan, and subdivision review and approval shall, with the exception of any minor subdivisions required at the outset to create the parcel(s) being developed, take place concurrently, provided that preliminary site plans and plats shall be acted upon within the time periods provided under Section 276 of the New York State Town Law. Final site plans and plats and conditionally approved site plans and plats shall be valid for a period of three (3) years from the date of approval unless extended by the Planning Board subject to a phasing plan. Special Use approval for any phases not completed or financially guaranteed, as provided below, within such three (3) year period, as may be extended by the Planning Board, shall immediately expire.

- g. **Installation of Improvements and Financial Guarantees:** The provisions of Section 277 of the New York State Town Law shall apply to installation or financial guarantee of all road and driveway improvements, parking areas, utility infrastructure, and outdoor recreational facilities connected with a continuing care facility, but not to the principal or accessory buildings or any other indoor improvements of a similar nature.