

**TOWN OF CONSTANTIA  
LAND DEVELOPMENT LAW**

**Local Law 2-2013**

**As Updated on December 31, 2022**

## **ARTICLE 1. INTRODUCTORY PROVISIONS**

### **Section 110. Enactment**

The Town Board of the Town of Constantia, Oswego County, New York, does hereby ordain and enact the Town of Constantia Site Plan Review Law pursuant to the authority and provisions of Section 10 of the Municipal Home Rule Law and Article 16 of the Town Law.

### **Section 120. Title**

This local law shall be known as the "Town of Constantia Land Development Law."

### **Section 130. Intent and Purpose**

It is the intent of this local law to promote the health, safety, and general welfare of the town. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the town, and in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the town and the general welfare of its inhabitants. It is further the intent of this local law to ensure the optimum overall conservation, protection, preservation, development, and use of the natural and man-related resources of the town, through setting minimum standards for density of development, frontage of lots on public roads and yards, and by regulating land use activity within the town through review and approval of site plans. It is not the intent of this local law to prohibit per se any land use activity but to allow all land use activities which will meet the standards set forth in this local law.

### **Section 140. Prior Laws**

This law shall replace and supersede the following laws:

Town of Constantia Sewage Disposal Law, Local Law No. 1 of 1978

Regulation of Manufactured Homes and Camp Trailers, Local Law No. 2 of 1978, as subsequently amended

Town of Constantia Site Plan Review Law, Local Law No. 1 of 1989

Town of Constantia Land Development Law, Local Law No. 2 of 2009

Telecommunications Towers, Local Law No. 1 of 1999

## **ARTICLE 2. DEFINITIONS**

Except as otherwise defined herein, all words and terms used in this law shall have their ordinary and usual meaning. The following words and terms, as used in this law, shall be as follows:

**Accelerated Erosion:** The removal of the surface of the land through the combined action of man's activities and the natural processes at a rate greater than would occur because of the natural process alone.

**Accessory Building:** A detached building which is of secondary importance to the principal building and which is located on the same lot.

**Accessory Facility (telecommunications):** A telecommunications facility serving the principal facility, subordinate in extent and purpose to the principal use, and located on the same lot as the principal use (e.g. storage sheds, equipment buildings, etc.)

**Agricultural Structures:** Barns, storage buildings, equipment sheds, silos, and other structures on a farm customarily used for agricultural purposes.

**Agricultural Use:** Land used for the raising of crops, cows, horses, pigs, poultry and other livestock, horticulture or orchards, including the sale of products grown or raised directly on such land, and including the construction, alteration, or maintenance of fences, agricultural access, agricultural drainage systems and farm ponds.

**Antenna:** A system of electrical conductors that transmit or receive radio frequency waves, including but not limited to radio navigation, radio, television, and microwave communications, including cellular telephone, personnel communication and paging with a frequency generally between 10 hertz and 306,000 megahertz.

**Area (of a Sign):** The entire area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, as included within the definition of a sign, together with the frame or, other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed, excluding the necessary supports or uprights on which such sign is placed. On signs with more than one face, only that face or faces visible from any one direction at one time will be counted.

**Building:** Any structure having a roof supported by columns or walls and intended as a shelter, housing or enclosure for persons, animals or chattel.

**Commercial Use:** Any use involving the sale, rental, or distribution of goods and services, either retail or wholesale.

**Cul de Sac:** A passage with access only at one end.

**Day Care Home, Family:** Any use defined as a Family Day Care Home in Section 390 of Social Services Law.

**Day Care Home, Group:** Any use defined as a Group Day Care Home in Section 390 of Social Services Law.

**Dumping:** The act of abandoning, burying or disposing, in any manner, of garbage, sewage, trash, refuse, hazardous wastes, junk, discarded machinery, vehicles or parts thereof, or other waste or scrap in any location other than in a manner and/or at a facility which is approved by the town for such purpose.

**Dwelling, One-family:** A complete self-contained residential unit for permanent habitation by one family only, and containing one or more rooms and facilities for living including cooking, sleeping, and sanitary needs.

**Dwelling, Two-family:** Two complete but separate self-contained residential units each intended for permanent habitation by one family only in a single structure having a common wall roof, wall or ceiling and containing separate rooms and facilities for living including cooking, sleeping, and sanitary needs.

**Earthmoving Activity:** Any construction or other activity which disturbs the surface of the land including, but not limited to, excavations, embankments, lands development, subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth.

**Enforcement Officer:** An individual designated by the Town Board to represent them in particular

matters pertaining to this local law.

**Erosion:** The natural process by which the surface of the land is worn away by the action of water, wind or chemical action.

**Erosion and Sedimentation Control Plan:** A plan which is designed to minimize accelerated erosion and sedimentation.

**Excavation:** A cavity formed by digging, quarrying, uncovering, displacing, or relocating soil or rock.

**Family:** A person or persons related to each other by blood, marriage, or adoption (and/or not more than three individuals not so related), living together as a single housekeeping unit.

**General Plan:** A comprehensive or master plan for the development of the Town prepared by the Planning Board pursuant to Section 272-a of the Town Law.

**Gross Floor Area (GFA):** The gross size of the total floor area of the outside dimensions of a building. These dimensions shall include the length, width and height of the facility.

**Gross Leasable Area (GLA):** The gross size of the floor area of a commercial/retail facility which is leased.

**Hazardous Materials:** Chemical or biological materials, substances, or wastes that pose a potential hazard to human or environmental health.

**Home Business:** A nonresidential activity that is conducted for financial gain within a dwelling unit or in a building or structure accessory to a dwelling unit; and is clearly incidental and secondary to the use of the dwelling unit for residential purposes.

**Industrial Use:** Any use involving the act of storing, preparing for treatment, manufacturing or assembling any article, substance or commodity.

**Interim Dwelling:** A temporary dwelling occupied during construction of a permanent dwelling.

**Land Use Activity:** Shall explicitly include, but shall not be limited to, the following: new structures, expansions to existing structures, new uses, changes in or expansions to existing uses, roads, driveways, and excavations for the purpose of extracting soil or mineral deposits. Shall not include reconstruction.

**Large-product Retail and Services:** Includes sales and service for new and used automobiles, trucks, manufactured homes, boats, and farm implements, auctioneers where auctions take place on-site, retail tree nurseries and garden shops, furniture and large appliance sales, and large restaurants.

**Lot:** A defined parcel of land considered as a unit occupied or capable of being occupied by a building and accessory buildings and/or uses.

**Lot Area:** The total area within the lot lines of a lot, excluding any road rights-of-way.

**Lot Frontage:** The length of a front lot line. Where there is more than one front lot line, both must meet the frontage requirement.

**Lot Line:** A boundary defining ownership of land as found in maps, deeds, and similar title documents.

Lot Line, Front: A lot line which abuts upon a road line or the right-of-way boundary of a private road.

Lot Line, Rear: A lot line generally parallel to or directly opposite a front lot line.

Lot Line, Side: A lot line extending between a front and rear lot line.

Manufactured Home: Manufactured housing built on a chassis bearing a seal issued by the Federal Department of Housing and Urban Development. A manufactured home shall be construed to remain a manufactured home, subject to all regulations applying thereto, whether or not wheels, axles, hitch or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. A manufactured home shall not be construed to be a travel trailer or other form of recreational vehicle.

Manufactured Home, Double-Wide: Manufactured housing built on a chassis bearing a seal issued by the Federal Department of Housing and Urban Development. A double-wide manufactured home is manufactured in two or more sections off-site and transported individually to the placement site and assembled there.

Manufactured Home, Single-Wide: Manufactured housing built on a chassis bearing a seal issued by the Federal Department of Housing and Urban Development and which is sixteen (16) feet or less in width.

Manufactured Home Park: Any lot under single ownership on which three or more manufactured homes are located regardless of whether or not rent is charged for such lot accommodations.

Mobile Home: A factory-manufactured dwelling unit built prior to June 15, 1976, with or without a label certifying compliance with NFPA, ANSI or a specific state standard, transportable in one or more sections, which in the traveling mode, is 8 feet (2438 mm) or more in width or 40 feet (12192 mm) or more in length, or, when erected on site, is 320 square feet (29.7 m<sup>2</sup>) minimum, constructed on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. The term "mobile home" shall not include travel trailers or any self-propelled recreational vehicle.

Modular Housing: A building designed for long-term residential use having the following characteristics: (1) constructed or produced in a factory for transportation to a site for installation and use when connected to required utilities; (2) either an independent, individual building or a module for combination with other elements to form a building on the site.

Occupy: The term "occupy" shall mean to reside in or use for eating and/or sleeping on an overnight basis.

Offices and Business Services: Includes administrative and business offices, professional offices and services, securities and financial brokerage services, banks, and savings and loan offices (but not currency exchanges).

Person: Any individual, group of individuals, partnership, firm, corporation, association, or other legal entity.

Portable Sign: Any sign which by its design is able to be and is commonly moved from place to place.

**Principal Building:** A building within which a principal use of the lot on which it is located is conducted. There may be more than one principal building on a lot.

**Reconstruction:** The action or process of reconstruction or being reconstructed; a structure that is being rebuilt to original size and use after being damaged or destroyed, the process to begin within one year from the damage or destruction.

**Recreational Camping Vehicle:** Any enclosed motor vehicle or trailer with current registration and inspection certificate used or designed to be used for recreational travel and temporary living and/or sleeping purposes including motor homes, truck campers, campers, travel trailers, tent trailers or overnight trailers, excluding manufactured homes.

**Recreational Camping Vehicle Park:** Any plot of ground upon which two or more trailers, pickup coaches, or similar recreational camping vehicles and/or tents intended for recreation, education, or vacation purposes are located and occupied.

**Recreational Camping Vehicle Site:** A parcel of land within a recreational camping vehicle park which has been equipped with the necessary utilities and improvements for the temporary placement thereon of a single recreational camping vehicle or tent.

**Recreational Camping Vehicle Site, Overnight:** A recreational camping vehicle site used only for a one-night stay at the park.

**Recreational Camping Vehicle Site, Vacation:** A recreational camping vehicle site normally used for stays in the park of two or more consecutive nights.

**Residential Use:** One-family dwelling, two-family dwelling, multiple-family dwelling, and manufactured home.

**Retail and Services:** May include but is not be limited to beauty/barber shops, key makers, shoe repair, gas stations and auto repair, restaurants, taverns, radio and TV sales and service; coin-operated laundries and dry cleaning; walk-in medical and ambulatory emergency services; medical and dental clinics and surgical centers; plumbing and heating sales and service; drug stores, florists, toy stores, book stores, furniture and antique stores, clothing and soft goods stores, sewing and small appliance stores, variety stores and discount stores and similar uses.

**Road:** The public right-of-way for vehicular and pedestrian traffic which affords the principal mean of access to abutting lots.

**Road Line:** The public right-of-way line of a road.

**Road, Private:** A non-public right-of-way for vehicular and pedestrian traffic which affords the principal means of access to abutting lots.

**Sediment:** Soils or other surficial materials transported by surface water as a product of erosion.

**Sedimentation:** The process by which sediment is deposited on stream bottoms.

**Shopping Center:** Facilities providing retail and services, large-product retail and services or offices and business services in excess of 25,000 square feet gross leasable area.

Shoreline: The high water mark of any lake, pond, river, or permanent stream.

Sign: Any structure or natural object or part thereof or device or inscription located upon, attached thereto or painted or represented on any land or on the outside of any building or structure or part thereof or affixed to the glass of a window so as to be seen from the outside of a building which shall be used to attract attention to any object, product, place, activity, person, institution, organization, or business, or which shall display or include any letter, words, numerals, emblems, symbols, models, banner, flags, pennants, insignia, trademarks, devices or representation used as, or which is in the nature of an announcement, direction, advertisement, attention-arrester, warning or designation of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise, industry, or public performance. Sign shall include any letter, word, model, banner, pennant, insignia, trade flag, or other device or representation used as, or which is in the nature of, an advertisement, announcement or direction, but excluding any public traffic or directional signs.

Stabilization: The proper placing, grading and/or covering of soil, rock or earth to insure their resistance to erosion, sliding, or other movement.

Structure: Any object constructed, installed, or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, signs, tanks, and any fixtures, additions, and alterations thereto.

Structure, Accessory: Any structure designed to accommodate an accessory use but detached from the principal structure, such as a free standing garage for vehicles accessory to the principal use, a storage shed, garden house, or similar facility.

Telecommunications Tower: A structure on which transmitting and/or receiving antenna(e) are located.

Temporary Sign: A sign intended to be in use for a limited period of time.

Waste Materials: Any discarded or unused items including but not limited to garbage, construction or demolition debris, household appliances, food scraps, and animal matter (not including animal matter ancillary to agricultural uses).

Wireless Service Providers: A company that offers transmission services to users of wireless devices through radio frequency signals rather than through end to end wire communication.

Yard: Space on a lot not occupied by a building or structure. Porches and decks shall be considered as part of the building to which they are attached and shall not project into the required yard.

Yard, Front: A yard between the roadway centerline and front line of a principal or accessory building extended to side lot lines, running parallel to the roadway centerline.

Yard, Rear: A yard between the rear lot line and rear line of principal building or accessory building extended to the side lot lines. The depth of the rear yard shall be measured as the shortest distance between the rear yard line and the building line.

Yard, Side: A yard between principal building or accessory building and a side lot line and extending through from front yard to rear yard.

**ARTICLE 3. APPLICATION**

1. Except as provided in subsection 2 below, no building or structure, including manufactured homes, shall hereinafter be constructed or placed in the Town of Constantia unless it conforms to the requirements of this law.
2. Accessory buildings less than or equal to 144 square feet in floor area may be placed in the minimum yard area of a rear yard.

**ARTICLE 4. GENERAL STANDARDS FOR DEVELOPMENT**

**Section 410. Density**

1. The minimum lot area for all development in the Town of Constantia shall be 40,000 square feet.
2. Wherever more than one principal building is placed on a lot, the minimum lot area shall be the applicable lot area provided in paragraph 1 of this section multiplied by the number of principal buildings to be placed on the parcel. The provisions of this section do not apply to a manufactured home park or recreational camping vehicle park approved in accordance with this law.

**Section 420. Lot Frontage**

All lots in the Town of Constantia shall have a minimum frontage on a road of 125 feet.

**Section 430. Yards and Setbacks**

1. All lots in the Town of Constantia shall maintain the following minimum yards:  
Front yard.....80 feet from road centerline (town and private roads)  
80 feet from road centerline (county roads)  
80 feet from road centerline (state roads)  
Side yard... ..15 feet  
Rear yard.....20 feet
2. Except as otherwise provided herein, no building or structure shall be permitted in any required yard.
3. Lots abutting two or more public or private roads shall maintain the minimum front yard along all roads.

**Section 440. Manufactured Homes**

1. The following requirement shall apply to any manufactured home, whether it is located on an individual lot or on a site within a manufactured home park.
2. Manufactured Home Skirting
  - a. Each manufactured home shall be provided with a skirt to screen space between the manufactured home and the ground.
  - b. Such skirts shall be of permanent material and provide a finished exterior appearance.
  - c. The material used shall be fire-resistant.



3. **Manufactured Home Stands**
  - a. Refer to New York State Residential Code appendix E.
  
4. A manufactured home being set up in the Town of Constantia (either inside or outside a manufactured home park) shall bear a HUD label, which certifies that the home is in compliance with all applicable federal construction and safety standards.
  - a. The home shall not have been modified structurally without certification.
  - b. Every manufactured home shall bear a date plate (affixed in the manufacturing facility) bearing not less than the following standards:
    - (1) The statement: “This manufactured home (manufactured home) is designed to comply with the federal manufactured home (manufactured home) construction and safety standards in force at the time of manufacture.”
    - (2) Reference to the structural zone and wind zone for which the home is designed.
  - c. A manufactured home being set up in the Town of Constantia, either in or outside a manufactured home park, shall be 12’ or wider, and 900 square feet or greater in floor area.
  
5. **Manufactured Home Fuel Supply and Storage**
  - a. **General Requirements.** All fuel oil supply systems provided for manufactured homes, service buildings, and other structures, shall be installed and maintained in conformity with the rules and regulations of the authority having jurisdiction when provided.
  - b. **Specific Requirements:**
    - (1) All fuel oil tanks shall be placed at rear of manufactured home and not located less than five feet from any exit.
    - (2) It is recommended that a central fuel supply system be provided.
    - (3) Supports or standards for fuel storage tanks are to be of a non-combustible material.
  - c. **Gas Supply - Natural**
    - (1) Natural gas piping systems installed in manufactured home parks shall be maintained in conformity with accepted engineering practices.
    - (2) Each manufactured home lot provided with piped natural gas shall have an approved shutoff valve and cap to prevent accidental discharge of gas.
  - d. **Liquefied Gas**
    - (1) Such system shall be provided with safety devices to relieve excessive pressures and shall be arranged so that the discharge terminates at a safe location.
    - (2) Systems shall have at least one accessible means for shutting off gas. This means shall be located outside of individual manufactured homes.
    - (3) All liquid propane gas piping shall be well supported and protected against mechanical injury.
    - (4) Storage tanks shall not be less than 100 pounds and must be located at rear of manufactured home and no closer than five feet from any exit.
    - (5) It is recommended that a central underground gas -storage system be furnished.

### **Section 450. Height of Buildings**

The height of all buildings shall be 40 feet, maximum. Building height shall be determined by measuring from the mean ground elevation of the building to the peak of the roofline.

## **Section 460. Access to Structures**

Pursuant to the provisions of Section 280-a of the Town Law, the entire Town of Constantia is hereby designated an open development area, wherein development permits may be issued for the erection of structures to which access is given by right-of-way or easement, upon such conditions and subject to such limitations as may be prescribed by general or special rule of the planning board.

## **Section 470. Home Businesses**

Home businesses that meet the following criteria shall require a permit:

1. One or more nonresidents are employed;
2. Total floor area devoted to the business exceeds 400 square feet;
3. The business is open to off-street customer or client traffic;
4. Two or more customers or clients are present on the site at one time.

Home businesses requiring permits shall be subject to the following standards:

1. Total floor area devoted to the business shall not exceed 15% of the total floor area of the principal residential use located on the lot.
2. Operation shall be limited to the interior of a building.
3. The exterior of a building containing a home business shall not be altered to accommodate the business.
4. Manufacturing and assembly operations shall be limited to five-horsepower tools.
5. Excessive noise, glare, vibrations, and/or electronic and microwave interference with radios, TVs and other household appliances shall not be produced.
6. Hours of operation shall be limited to 6 a.m. - 9 p.m. Monday through Saturday, and 7 a.m. - 8 p.m. on Sundays.
7. All parking shall be provided on-site in accordance with Section 815, and there shall be no on-street parking.
8. The business shall employ a maximum of three people.

## **ARTICLE 5. SPECIAL DEVELOPMENT STANDARDS**

### **Section 505. Principal Residential Structures Per Lot**

There shall be no more than one one-family or two-family dwelling on a single lot except in the following circumstance:

1. A permit may be issued allowing a maximum of two one-family or two-family dwellings on a single lot where it can be demonstrated that any future subdivision of the lot, which would result in the dwellings being located on separate lots, can be accomplished in such a way that: 1) the resulting dwellings and accessory structures will have front, side and rear yard depths in accordance with this law; 2) the resulting lots will have areas and dimensions in accordance with this law; and 3) all sewage and wastewater systems will be in accordance with the NYS Sanitary Code. All principal structures shall be separated by a distance of at least twice the side yard depth requirement, or such greater distance as deemed appropriate by the planning board so as to allow for lawful future subdivision.
2. A permit may be issued for one interim dwelling located on the site of the construction of a one- or two-family dwelling for which a valid building permit is in effect; for one interim manufactured home unit for commercial or industrial use on the site of the construction of a

commercial or industrial use for which a valid building permit is in effect; or for temporary uses and structures incidental to a construction project for which a valid building permit is in effect. All interim structures shall be removed within 60 days of the issuance of a certificate of compliance.

## **ARTICLE 6. NONCONFORMITIES**

### **Section 610. Continuation of Nonconforming Structures**

Any lawful structure existing at the time of the enactment of this law or prior to any subsequent amendment thereof applying to such structure may be continued although such structure does not conform to the provisions thereof.

### **Section 620. Construction Started Prior to this Law**

Any structure for which construction was begun prior to the effective date of this law or prior to any subsequent amendment thereof pursuant to a properly authorized building permit may be completed and used in accordance with the plans and specifications for such structure provided that construction is completed within one year of issuance of the permit.

### **Section 630. Existing Undersized Lots**

No variance shall be required for any lot of public record, lawfully created prior to the adoption of this law and whose lot area and/or lot frontage are less than the specified minimum lot requirements provided that:

1. Such lot does not adjoin any lot or lots held by the same owner whose aggregate area is equal to or greater than the minimum lot area requirements;
2. The minimum yard dimensions as provided in the law are maintained;
3. Any claimed hardship was not self-created;
4. The lot is improved with no more than one single family dwelling.

### **Section 640. Two Lot Division of Existing Conforming and Non-conforming Undersized Lots**

1. As stated in Section 135 of the Town of Constantia Subdivision Law, the Planning Board may waive the subdivision review procedure of a subdivision creating no more than two lots under the following conditions:
  - a. An application and fee are submitted to the enforcement officer;
  - b. The applicant provides evidence acceptable to the enforcement officer that both lots will conform to the requirements of this law. Such evidence shall consist of proposed deeds, plot plans, or surveys of land included in the application. If one of the created lots is nonconforming, it can only be sold to the owner of adjacent property and must be merged with that property. Proof of merger application shall be provided;
  - c. A nonconforming lot may be subdivided if both created lots are purchased by the owners of adjacent properties. These lots must be merged with those properties. Proof of merger application shall be provided;
  - d. The proposed subdivision has no negative environmental significance pursuant to 6 NYCRR Part 617;
  - e. Lots created may not be resubdivided without subdivision approval.

### **Section 650. Exemptions of Lots Shown on Approved Subdivision Plats**

In accordance with Town Law Section 265-a, any lot proposed for residential use in a subdivision whose plan delineates one or more new roads and which said subdivision plat has been properly approved by the Planning Board and filed with the office of the County Clerk prior to the passage of this law and whose area and/or frontage are less than the specified lot requirements of this law shall be considered as complying with such minimum lot requirements for two years after the filing of the subdivision plat.

## **ARTICLE 7. SITE PLAN REVIEW**

### **Section 705. Planning Board Review of Site Plans**

The Planning Board is hereby authorized to review and approve or disapprove site plans for land uses within the town as hereinafter designated pursuant to and in accordance with the standards and procedures set forth in this local law.

### **Section 710. Site Plan Required**

All new land use activities, change of property classification or change in use of land, buildings or structures through the establishment of a new use, or through the expansion or enlargement of an existing use, shall proceed through a site plan review. Supporting data must be submitted for review and approval in accordance with the standards and procedures set forth in this law. No permit shall be issued by the enforcement officer, except upon authorization by and in conformity with an approved site plan.

### **Section 715. Land Uses Exempted from Site Plan Review**

All new land use activities and changes in use of land, buildings or structures through the establishment of a new use, or through the expansion or enlargement of an existing use within the town shall require site plan review and approval before being undertaken, except the following:

1. construction of one- or two-family dwelling, single-wide manufactured home, double-wide manufactured home, modular home, and ordinary accessory structures (less than 1,500 square feet in floor area), and related land use activities;
2. agricultural structures;
3. landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this law;
4. ordinary repair or maintenance of existing structures or uses;
5. any interior alteration of an existing structure where the existing use is retained;
6. Exterior alterations or additions to existing structures which have been through previous site plan review, and retain the same use, and which would not increase the square footage of existing structure by more than 25 %. If the existing structure has not been through previous site plan review, the alteration or addition shall be subject to site plan review. This exemption can only be used once per structure.

## **Section 720. Existing Uses and Structures**

This law does not apply to uses and structures which are lawfully in existence as of the date this law becomes effective. Any use which would otherwise be subject to this law, that has been discontinued for a period of one year or more, shall be subject to review pursuant to the terms of this law before such use is resumed. Any use or structure shall be considered to be in existence provided the same has been commenced as of the effective date of this law and fully constructed and completed within one year from the effective date of this law.

## **Section 725. Objectives of Site Plan Review**

In order to provide for the orderly growth of the community, consistent with the objectives set forth in the General Plan, all land use activities requiring site plan approval shall be accompanied by a proposed site plan. In considering and acting on site plans, the Planning Board shall consider the public health, safety, welfare, and comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area. The Planning Board may prescribe such appropriate conditions and safeguards as may be required in order that the results of its action shall, to the maximum extent possible, further the accomplishment of the following objectives in particular:

1. Vehicular Access: That proposed access points are not excessive in number, but adequate in width, grade, alignment, and visibility; not located too close to intersections or places of public assembly; and other similar safety consideration.
2. Circulation and Parking: That adequate off-road parking and loading spaces are provided to prevent parking of vehicles on public highways by any persons connected with or visiting the development, that the interior circulation system is adequate to provide safe accessibility to all required parking lots, and that it provides adequate separation of pedestrian and vehicular movements.
3. Landscaping and Screening: That all parking, storage, loading, and service areas are reasonably screened at all seasons of the year from the view of adjacent residential areas and that the general landscaping of the site is in character with the surrounding areas.
4. Natural Features: That the proposed use, together with its sanitary and water service facilities, are compatible with geologic, hydrologic, and soil conditions of the site and adjacent areas and that existing natural scenic features are preserved to the extent possible.

## **Section 730. Procedures - Generally**

Prior to undertaking any new land use activity except for uses specifically exempted in Section 715 above, a site plan approval by the planning board is required. Applicants for site plan approval shall follow the procedures related to the sketch plan conference as hereinafter set forth, and must comply with all other procedures and requirements of this local law.

## **Section 735. Sketch Plan Conference**

A sketch plan conference shall be held between the planning board and the applicant prior to the preparation and submission of a site plan. The intent of such a conference is to enable the applicant to inform the planning board of his proposal prior to the development of a detailed site plan; and for the planning board to determine the proposals conformity to the general plan, review the basic site design concept, advise the applicant as to potential problems and concerns, and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant shall provide the following:

1. A statement and sketch map showing:

- a. location and dimensions of principal and accessory structures.
  - b. access signs (with descriptions).
  - c. existing and proposed vegetation and other planned features.
  - d. anticipated changes in the existing topography and natural features.
  - e. existing wetlands.
  - f. existing flood hazard areas and any measures and features to comply with flood hazard and flood insurance regulations and local laws.
  - g. Public and private water supplies.
2. An area map showing:
    - a. parcel under consideration.
    - b. all properties, subdivisions, roads, rights-of-way, easements, and other pertinent features within 200 feet of the boundaries of the parcel.
  3. A topographic or contour map of adequate scale and detail to show site topography.

### **Section 740. Site plan Application**

Eight copies of the application for site plan approval shall be filed with the enforcement officer together with the appropriate fee as determined by the fee schedule adopted by town board resolution. The application shall be filed with the enforcement officer at least 10 business days prior to the planning board meeting in which it will be considered. The application and plan shall be accompanied by information drawn from the following checklist as determined necessary by the planning board at the sketch plan conference.

1. Name and address of applicant and owner, if different, and of the person responsible for preparation of such drawings;
2. Date, north arrow, written and graphic scale;
3. Boundaries of the area plotted to scale, including distances, bearings, and areas;
4. Location and ownership of all adjacent lands as shown on the latest tax records;
5. Location, name, and existing width of adjacent roads;
6. Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use or adjoining the property;
7. Complete outline of existing or proposed deed restrictions or covenants applying to the property;
8. Grading and drainage plan, including existing hydrologic features, including watercourse, existing and proposed contours at five foot intervals, rock outcrops, depth to bedrock, and soil characteristics;
9. Location, design, type of construction, proposed uses, and exterior dimensions of all buildings;
10. Location, design, construction materials of all parking and truck loading areas with access and egress drives thereto;
11. Provision for pedestrian access, including public and private sidewalks;
12. Location of outdoor storage, if any;
13. Location, design, and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences;
14. Description of the method of sewage disposal and the location, design, and construction materials of such facilities;
15. Description of the method of securing public water and location, design, and construction materials of such facilities;
16. Location of fire lanes and other emergency zones including the location of fire hydrants;
17. Location, design, and construction materials of all energy distribution facilities, including electrical, gas, and solar energy;
18. Location, size, design, and construction materials of all proposed signs;

19. Location and proposed development of all buffer areas including indication of existing and proposed vegetative cover;
20. Location and design of outdoor lighting facilities;
21. Designation of the amount of Gross Floor Area (GFA) and Gross Leasable Area (GLA) proposed for retail and services, office, and other similar commercial or industrial activities;
22. Number and distribution by type of all proposed dwelling units;
23. An estimated project construction schedule;
24. General landscaping plan and planting schedule;
25. An agricultural data statement pursuant to Town Law Section 283-a, when applicable;
26. A statement of the nature and extent of the interest of any state employee, or officer or employee of the town in the applicant pursuant to General Municipal Law Section 809, when applicable;
27. An environmental assessment form (EAF) and, when applicable, a draft environmental impact statement (EIS) pursuant to 6 NYCRR Part 617;
28. Other elements integral to the proposed development as considered necessary by the planning board including identification of any federal, state, or county permits required for the project's execution.

#### **Section 745. Materials to be Submitted by Applicant**

1. **Vicinity Map:** This map at a scale of 2,000 feet to the inch or larger shall show the relationship of the proposal to existing community facilities that may affect or serve it such as roads, shopping areas, schools, employment centers, etc. It shall show all properties, subdivisions, roads, and easements within 300 feet of the proposal. Such a sketch may be superimposed on a USGS map of the area.
2. **Topographic Map:** This shall be drawn at a scale of 40 feet to the inch or larger and shall show existing topography at a contour interval of not more than two feet. This map shall also show the location of pertinent natural features that may influence the design of the proposed use such as water courses, swamps, wetlands, rock outcrops, wooded areas, areas subject to flooding, etc.
3. **Site Development Plan:** This map of the property on which the proposal is to be situated shall be drawn at a scale of 40 feet to the inch or larger and shall show the location of all automobile parking and all parking for commercial vehicles while loading and unloading, the location and width of all driveways, exits, and entrances, the location of all existing or proposed site improvements including drains, culverts, retaining walls, and fences; provide a description and show the location of sewage disposal facilities, water facilities, show location and size of all signs, the location of proposed buffer areas, and the design of lighting facilities, and such other facilities as indicated in the preliminary site plan checklist.
4. **Elevations and/or Sections:** The site plan shall be accompanied by preliminary elevations and/or sections at the same or larger scale as required for the site plan, drawn in sufficient detail to delineate clearly the bulk and height of all buildings and other permanent structures included in the proposal.
5. **Engineering Plans:** Preliminary engineering plans including road improvements, drainage systems, and public or private sewer and/or water systems, and other such supporting data will be required.

## **Section 747. Waiver of Submission Requirements**

The planning board may waive any of the submission requirements above where it deems that the information is either not applicable or is unnecessary to a particular review.

## **Section 750. Site Plan Elements Reviewed**

The planning board's review of the site plan shall include, as appropriate, but shall not be limited to, any of the following items. The planning board may consult with local and county officials, its designated consultants, and representatives of federal, state, and county agencies including but not limited to the Soil Conservation Service, the New York State Department of Environmental Conservation, Department of Health, and the Department of Transportation in the review of these items:

### **(General Considerations)**

1. Status of any federal, state, or county permits required.
2. Existing or proposed deed restrictions.
3. Environmental, social, physical, and environmental impact on community and adjacent areas.
4. Age and mobility of design population.
5. Compatibility with General Plan.

### **(Landscaping and Screening)**

6. Location and proposed development of buffer area including vegetative cover.
7. Outdoor lighting and time of use proposed.
8. General landscaping plan and planting schedule, including adequacy, type, and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
9. Location, size, design, and construction materials on signage.
10. Any areas subject to flooding, pondage, storm water overflow or erosion, or in a wetlands area, with special attention to the adequacy and impact of structures, roadways, and landscaping in or adjacent to those areas.
11. Location of existing water course, wetlands rock outcrop, forest, gorge, designated Natural Heritage sites, -or other unique natural features.
12. Proposed fencing construction and material.
13. Clearing, alteration, or removal of any existing natural feature.

### **(Access and Circulation)**

14. Entrances and exits to public roads.
15. Deceleration strip.
16. Traffic control measures.
17. Speed limits and adjacent roads.
18. Traffic volume on and adjacent to site.
19. Special access for emergency vehicles.
20. Internal circulation including road width, pavement surfaces, separation of pedestrian and vehicular traffic; and adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, and overall pedestrian convenience.
21. Intersections.
22. Existing or proposed easements.
23. Existing or proposed setbacks.



(Parking, Loading, and Storage)

24. Location, design, and construction materials.
25. Adequacy to meet standards for occupants, visitors, employees.
26. Separate access for truck loading facilities.
27. Outdoor storage.
28. Snow removal.
29. Storm water collection and treatment.
30. Solid waste collection and removal.

(Architectural Features)

31. Location, size, design, proposed use and height, and general site compatibility of building, lighting, and signs including overall compatibility with adjacent properties and areas.
32. Space devoted to retail sales, storage, service, wholesale, or other commercial facilities.
33. Number and type of housing units per building and proposed site density.
34. Floor plans, elevation, and sections of typical structures.
35. Lot coverage - density.

(Site Characteristics and Utilities)

36. Suitability of soil for proposed use.
37. Existing topography.
38. Proposed grading and drainage plan including calculated storm water runoff.
39. Measures to control erosion.
40. Description of sewage disposal system including location, design, construction materials, and estimated cost of facilities.
41. Description of method to secure public (or source of) water including location, design, and construction material for proposed facilities.
42. Location of fire and/or emergency zones including special access, if any.
43. Location, design, and construction materials of all energy distribution facilities including but not restricted to electric, gas, and solar.

**Section 753. Referral to County Department of Planning and Community Development**

At least 10 days before the hearing, the planning board shall refer all matters that fall within those areas specified under General Municipal Law Section 239-l and -m to the County Department of Planning and Community Development. This shall include any use that falls within 500 feet of the following: the boundary of the town or any village within the town; a state or county park or recreation area; a state or county highway or expressway; a state or county owned drainage channel; state or county land where a public building or institution is located; or a farm operation in an agricultural district. If the county planning board does not respond within 30 days from the time it received a full statement on the referral matter, then the planning board may act without such report.

**Section 755. Public Hearing**

The planning board may conduct a public hearing on the site plan if considered desirable by a majority of its members. Such hearing shall be held within 62 days of the acceptance of a completed application for site plan approval by the planning board, and shall be advertised in the town's official newspaper, or if there is none, in a newspaper of general circulation in the town at least five days before the public

hearing.

**Section 760. Planning Board Decision**

Within 62 days of the acceptance of a completed application for site plan approval by the planning board, or if a public hearing is held, within 62 days of the public hearing, the planning board shall render a decision. In its decision the planning board may approve, approve with modifications, or disapprove the site plan. The time period in which the planning board must render its decision can be extended by mutual consent of the applicant and the planning board. The decision of the planning board shall be filed in the office of the town clerk within five business days of the decision.

1. Approval. Upon approval of the site plan, and payment by the applicant of all fees and reimbursable costs due the town, the planning board shall endorse its approval on a copy of the site plan and shall file it and a written statement of approval with the enforcement officer. A copy of the written statement of approval shall be mailed to the applicant.
2. Approval with Modifications. The planning board may conditionally approve the final site plan. A copy of the written statement containing the modifications required by the conditional approval will be mailed to the applicant. After adequate demonstration to the planning board that all conditions have been met, and payment by the applicant of all fees and reimbursable costs due the Town, the planning board shall endorse its approval on a copy of the site plan and shall file it and a written statement of approval with the enforcement officer. A copy of the written statement of approval shall be mailed to the applicant.
3. Disapproval. Upon disapproval of the site plan, the decision of the planning board shall be filed with the enforcement officer and a copy thereof mailed to the applicant, along with the planning board's reasons for disapproval.

**Section 765. Report to County Department of Planning and Community Development**

Within 30 days of final action on any matter referred to the County Department of Planning and Community Development pursuant to Section 753 above, the planning board shall file a report of the final action it has taken with the County Department of Planning and Community Development.

**ARTICLE 8. SITE PLAN REVIEW STANDARDS**

**Section 801. Site Plan Review Standards**

The standards of this article shall apply to all uses and structures approved by the planning board pursuant to the site plan review and approval provisions of Article 7 of this law.

**Section 805. Access**

Access to all sites shall be consistent with the standards set forth in "Policy and Standards for Entrances to State Highways," as revised, published by the State of New York Department of Transportation.

**Section 810. Lighting Systems**

1. Performance: Adequate lighting shall be provided on a site to ensure safe movement of persons and vehicles and for security purposes. Lighting standards shall be of a type approved by the

planning board. All lighting shall be designed and arranged so as to minimize glare and reflection on adjacent properties and public roads.

2. Design: The following design standards shall be followed on all site development plans:
  - a. The style of the light and light standard should be consistent with the architectural style of the principal building.
  - b. The maximum height of free standing lights should be the same as the principal building but not exceeding 25 feet.
  - c. All lights should be directed downward (down shielded).
  - d. Where lights along the property lines and public roads will be visible to adjacent residents, the lights should be appropriately shielded.
  - e. Spotlight-type fixtures attached to buildings should be avoided.
  - f. Free-standing lights should be so located and protected to avoid being easily damaged by vehicles.
  - g. Lighting should be located along roads, parking areas, at intersections, and where various types of circulation systems merge, intersect, or split.
  - h. Pathways, sidewalks, and trails should be lighted with low or mushroom type standards.
  - i. Stairways, sloping or rising paths, building entrances, and exits should be illuminated.
  - j. Lighting should be provided where buildings are set back or off-set.
  - k. The following intensity in foot candles should be provided:
    - (1) Parking lots - an average of one foot candle;
    - (2) Intersections - two foot candles;
    - (3) Maximum at property lines 0.6 foot candles;
    - (4) In residential areas - an average of 0.6 foot candles.

### **Section 815. Parking**

1. All uses shall be provided with off-road parking for all vehicles during typical peak use periods. Off-road parking may be located off-site but must be within 300 feet of the site.
2. A parking space shall not be less than nine feet by 20 feet exclusive of access ways and driveways.
3. Existing uses need not provide additional off-road parking unless one or more of the following conditions occur:
  - a. The use changes.
  - b. The use expands its gross floor area by 20 percent or more if the dollar value of the rehabilitation of the facility for purposes of expansion exceeds 50 percent of the prior value of the facility.
  - c. The use is destroyed and seeks to be re-established.
4. To the greatest extent possible all parking areas shall be located behind the facility served and out of roadside view. Where parking areas must be located in front of a facility adjacent to a public highway, appropriate landscaping or visual barriers shall be provided.
5. To the greatest extent possible the size of all parking areas other than those for dwelling units and dwelling units with a home occupation shall be based on gross leasable area. Where gross leasable area figures are unavailable, the same standards will be used with the phrase "gross floor area" substituted for "gross leasable area."

6. Minimum standards are:
  - a. Two spaces per dwelling unit.
  - b. For each dwelling unit with a home business:
    - (1) adequate space to accommodate all vehicles during typical peak use periods, or
    - (2) one space for each 200 square feet of gross floor area.
  - c. Offices and business services: one space for each 200 square feet of gross leasable area.
  - d. Retail and services: one space for each 200 square feet of gross leasable area.
  - e. Large-product retail and services: one space for each 400 square feet of gross leasable area.
  - f. Shopping centers:
    - (1) A shopping center site containing between 25,000 and 400,000 square feet of gross leasable area inclusive must provide one space for each 250 square feet of gross leasable area.
    - (2) A shopping center site containing between 400,000 and 600,000 square feet of gross leasable area must provide one space for each 225 square feet of gross leasable area.
    - (3) A shopping center site containing 600,000 square feet or more of gross leasable area must provide one space for each 200 square feet of gross leasable area.
    - (4) Office space occupying greater than ten percent of gross leasable area must meet office standards.
  - g. Facilities with drive-up service windows: Three 20 feet car length waiting spaces for each drive up lane. Where multiple drive up windows exist, there shall be one additional waiting space which shall be a common lane.
  - h. Public facilities (churches, municipal buildings): one space for each four seats.
  - i. Funeral homes: one space for each 50 square feet of gross leasable area.
  - j. Industrial facilities: one space for each 200 square feet of gross leasable area unless documentation can be presented to show an unusually low ratio of employees to floor space.
  - k. Marinas and Boat storage facilities: one space for every four boats stored.
7. All fractional portions of parking spaces as calculated by Gross Leasable Area shall be deleted if the fraction is less than .50; otherwise one additional parking space is required.

### **Section 820. Off-Road Loading**

1. All uses other than dwelling units or dwelling units with home occupations must comply with the following off-road loading standards:
  - a. For the first 5,000 square feet of gross leasable area, one berth shall be provided.
  - b. For each additional 10,000 square feet of gross leasable area, one additional berth shall be provided.
2. With the exception of funeral homes, each loading berth shall be a minimum of 12 feet wide, 50 feet long and 14 feet in height.
3. Loading area berths for funeral homes shall be a minimum of ten feet wide, 25 feet long and eight feet in height.
4. Where the use, traffic generation or function of a site is such that the use can show that the number of berths required is not justified, the Planning Board may waive these requirements.

## **Section 825. Signs**

1. Refer to standards and requirements of Article 9 of this law.

## **Section 830. Soil Erosion and Sedimentation Control**

1. General: All earthmoving activities within the Town shall be in compliance with all NYS regulations and shall be conducted in such a way as to prevent accelerating erosion and the resulting sedimentation. To accomplish this, a person engaged in earthmoving activities shall develop, implement, and maintain erosion and sedimentation control measures which effectively minimize accelerated erosion and sedimentation. These erosion and sedimentation measures must be set forth in a plan as described below and must be available at all times at the site of the activity.
2. Erosion and Sedimentation Control Plan
  - a. The erosion and sedimentation control plan shall be prepared by a person trained and experienced in erosion and sedimentation control methods and techniques.
  - b. The erosion and sedimentation control plan shall be designed to prevent accelerated erosion and sedimentation and shall consider all factors which contribute to erosion and sedimentation including, but not limited to, the following:
    - (1) The topographic features of the project area;
    - (2) Types, depth, slope, and area extent of the soils.
    - (3) The proposed alteration to the area;
    - (4) The amount of runoff from the project area and the upstream watershed area;
    - (5) The staging of earthmoving activities;
    - (6) Temporary control measures and facilities for use during earthmoving;
    - (7) Permanent control measures and facilities for long-term protection; and
    - (8) A maintenance program for the control facilities including disposal of materials removed from the control facilities or project area.
3. Restoration
  - a. Upon completion of the project, all areas which were disturbed by the project shall be stabilized so that accelerated erosion shall be prevented.
  - b. Any erosion and sedimentation control facility required or necessary to protect project areas from erosion during the stabilization period shall be maintained until stabilization is completed.
  - c. Upon completion of stabilization, all unnecessary or unusable control facilities shall be removed, the areas shall be graded and the soils shall be stabilized.

## **Section 845. Landscaping**

1. General Requirements:
  - a. Where the proposed land use is potentially incompatible with the adjacent uses, an effective vegetative screen shall be developed and maintained to visually separate the proposed use from view from adjacent inhabited areas.
  - b. Consideration should be given to maintaining areas of native plants in unprogrammed spaces and native plant species should be considered for new planting.
2. Traffic Movement: In areas where landscape materials are used to define paths of traffic movement, the following guideline shall be used:

- a. Plants shall be selected to achieve not more than three feet mature height. Planting height shall be 18 to 24 inches.
3. Parking Areas: In areas where landscape materials are used to complement parking areas, branching of trees shall begin at a height no less than ten feet and no greater than 12 feet.
  4. Screen: Where landscape materials are used for screening purposes, the following guidelines shall be used:
    - a. When sufficient space is available, a dense screen of evergreen plant materials shall be used.
    - b. Plant materials shall be not less than six feet and not more than 12 feet in height when planted and shall be spaced to form an opaque screen either in a single row or in multiple rows with alternate spacing.
    - c. Where limited space is available, stockade or other approved fence may be used in conjunction with climbing or trellis plants.
    - d. Where possible, areas of existing vegetation should be used to advantage in creating vegetative screens.

**Section 850. Shoreline Standards and Considerations**

1. All construction on any shoreline lot shall be carried out in such manner as to minimize interference with the natural course of such waterway, to avoid erosion of the shoreline, to minimize increased runoff of ground and surface water into the waterway, to remove only that vegetation which is necessary to the accomplishment of the project, and to generally maintain the existing aesthetic and ecological character of the shoreline.
2. Any boat pump-out or other connection to provide for the accommodation of sanitary wastes shall be connected to an adequate disposal system and shall comply with all NYS regulations.
3. Any marina, boat service facility, or any storage of petroleum products within 100 feet or reasonable setback as determined necessary by the Planning Board of the shoreline shall include adequate provisions for ensuring that any leak, rupture, or spill will be contained and not be introduced into or affect the adjacent waterway. In particular, a raised earthen or paved berm or dike shall be constructed in such manner as to afford adequate protection and shall comply with all NYS regulations.
4. Any paved or otherwise improved parking, loading, or service area within 100 feet of any shoreline shall be designed and constructed so as to minimize surface runoff and the entrance of any chemical pollutants or earthen siltation into the waterway.

**ARTICLE 9. SIGNS**

**Section 910. Purpose**

The purpose of this section is to promote and protect the public health, welfare and safety by regulating existing and proposed signs. It is intended to protect property values, create a more attractive economic and business climate, and enhance and protect the physical appearance of the community. It is further intended to reduce distractions and obstructions that may contribute to traffic accidents and reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way.

## **Section 920. Permits**

All signs shall require a permit except those listed in Section 930 and Section 940.

## **Section 930. Permit Exempt Temporary Signs**

A permit shall not be required for the following temporary signs:

1. **Announcing Signs:** One sign per road frontage of a building which is under construction, structural alteration or repair, announcing the character of the building enterprise or the purpose for which the building is intended, or one sign per other construction project, including names of architects, engineers, contractors, developers, financiers, and others, not to exceed 64 square feet. Placement shall not exceed 30 days following completion of the project.
2. **Real Estate Signs:** One sign per road frontage not to exceed 32 square feet advertising the sale, rental, or lease of the premises on which displayed. Placement shall not exceed 30 days following the sale, rental or lease of the property. All such signs shall be set back at least 15 feet from side lot lines.
3. **Subdivision Signs:** One sign per road entrance to the subdivision and located on the property to be subdivided, not to exceed 64 square feet. Such sign may not be erected until the subdivision has been approved by the appropriate officials. Placement shall not exceed one year from the date of subdivision approval. The display period may be extended upon approval of the planning board for a reasonable period of time, not to exceed one year at any given time.
4. **Sale Ad Signs:** Signs advertising special sales of goods or merchandise which will be on sale for no longer than one month. Such signs shall be removed immediately following termination of the sale.
5. **Political Signs:** Political posters, banners, promotional devices and similar signs, not to exceed 32 square feet. Placement shall not exceed 30 days.
6. **Window Posters:** Nonilluminated window signs and posters.
7. **Roadside Stand Signs:** Multiple signs for roadside stands selling agricultural produce grown on the premises in season, not to exceed a total of 64 square feet.

## **Section 940. Permit Exempt Permanent Signs**

A permit shall not be required for the following signs:

1. **Institutional Signs:** One sign per road front, setting forth or denoting the name of any public, noncommercial, charitable, or religious institution when located on the premises of such institution, not to exceed 32 square feet.
2. **Public Signs:** Signs of a public or noncommercial nature, which shall include community service information signs, public transit service signs, public utility information signs, safety signs, danger signs, trespassing signs, signs indicating scenic or historic points of interest, traffic control signs, and all signs erected by a public officer in the performance of a public duty.

3. Mobile Home Park, or Subdivision Name Signs: One sign not to exceed 32 square feet per exclusive entrance to a subdivision or park; such signs are restricted to the subdivision or mobile home park name.
4. Multiple Dwelling Signs: One sign, building or ground mounted, indicating the name of the dwelling, not to exceed 32 square feet.
5. Gasoline Station Signs: Integral graphics or attached price signs on gasoline pumps. Two auxiliary signs per station, each not to exceed 32 square feet.
6. Flags: Official flags of government jurisdictions, including flags indicating weather conditions and flags which are emblems of on-premises religious, charitable, public, and nonprofit organizations.
7. Plaques: Commemorative plaques placed by historical agencies recognized by the town, the county or state.
8. Architectural Features: Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.
9. Parking Signs: Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
10. Residential Signs: Signs bearing only property numbers, post box numbers, or names of occupants of premises, not to exceed five square feet.
11. Vegetative Signs: Signs made exclusively of vegetative material.

### **Section 950. Prohibited Signs**

The following sign types shall not be allowed at any location:

1. Signs which have flashing, moving, rotating or intermittent lights other than to show time and temperature.
2. Signs having moving parts; banners, ribbons, streamers, pennants, spinners, or other similar moving, fluttering, or revolving devices; projections beyond its area; mirror or mirror-like surfaces; or dayglowing or other fluorescent paint or pigment.

### **Section 960. General Sign Standards**

1. All signs shall be properly maintained. They shall be in good structural repair, not a safety hazard, and attractively painted so as to be legible and not an eyesore.
2. Signs may be placed in required yards, providing such placement does not interfere with traffic safety.
3. No sign shall be placed closer than 15 feet to a right-of-way line and 15 feet from a side lot line.
4. Flood lights and other external lighting fixtures used in the illumination of signs shall be permitted if located and/or shielded so as not to produce direct glare at neighboring residences



and highway traffic.

5. Any business, enterprise, institution, or other advertising entity that ceases operations shall remove their signs within 90 days of such cessation. The owner of the property on which any such signs stand shall be ultimately responsible for sign removal.

### **Section 970. Specific Sign Standards**

1. All exterior wall signs (including awning and canopy signs) are subject to the following standards:
  - a. Each building is allowed one sign per wall.
  - b. Exterior wall signs shall not exceed 100 square feet or 5% of the applicable wall area, whichever is less.
  - c. Exterior wall signs shall be flush against the wall, not cover architectural features or details, and not extend beyond the roof line or outer edges of the building.
2. All free standing signs are subject to the following standards:
  - a. Each property is allowed two free standing signs.
  - b. Free standing signs shall not exceed 32 square feet in message area (maximum two faces).
  - c. Free standing signs shall be no taller than 20 feet.
3. Light Emitting Diode (LED) sign shall be subject to the following standards:
  - a. A minimum distance of 100 feet shall be required between any two LED signs or any LED sign and a residential use.
  - b. Signs must be off between the hours of 10:00 pm and 6:00 am.
  - c. Signs shall not include animation.

## **ARTICLE 10. RECREATIONAL CAMPING VEHICLE PARKS**

### **Section 1010 - Park Location and Conditions**

1. Each recreational camping vehicle park shall have adequate access to a public highway, and each recreational camping vehicle site shall be serviced from interior roadways.
2. All buildings and recreational camping vehicle sites shall have a front yard setback of 150 feet from the centerline of all roads with the setback area being seeded and adequately landscaped to provide screening from the road.
3. An overnight recreational camping vehicle site shall be a minimum 2,000 square feet in size and 4,000 square feet shall be provided for longer term vacation camping sites.
4. The owner or manager of a recreational camping vehicle park shall maintain an office in the

immediate vicinity of the park and shall maintain accurate records of the names of park residents; home address; and make, description, year, and license or identification number of the trailer. These records shall be available to any law enforcement official or the enforcement officer.

5. A minimum of 10% of the total area of the recreational camping vehicle park, not including the required setback, shall be dedicated to a recreation area and shall be fully maintained by the park owner.
6. Recreational camping vehicle sites shall be located on generally level terrain, not to exceed eight percent slope that is well drained, free of flood hazard.
7. The corners of each recreational camping vehicle lot shall be clearly and permanently marked, and each lot numbered for identification.
8. Where the park terrain is adequate, "pull-through" lots will be provided.
9. Sewer, water, and other utilities shall be provided in accordance with the requirements of Chapter 1, Part 7, of the New York State Sanitary Code, which is adopted herein by reference, and subject to any other town requirements.
10. All recreational camping vehicle parks shall provide a building containing at least one automatic washing machine, and unless admission to the park is restricted to recreational camping vehicles equipped with these facilities, one toilet, lavatory and shower for each sex, for each 20 recreational camping vehicle lots. At least one public telephone shall be provided in each recreational camping vehicle park.
11. No person in the Town of Constantia shall occupy a recreational camping vehicle on an overnight basis, except in a recreational camping vehicle park which has been approved by the planning board or on private land with the consent of the owner for a period not to exceed 120 days per calendar year. On site disposal of sewage only by health department approval means.

The Town of Constantia Development Law is hereby amended by Local Law 1-2020 to add a new Section 1010.1 as follows:

### **Section 1010.1 Recreational Camping Vehicles outside a Recreational Camping Vehicle Park**

Recreational Camping Vehicles, (See Article 2 – Definitions - Page 2), are seasonal and not designed for year-round living, therefore year-round occupation of such camping vehicle is prohibited. Recreational camping vehicles which are sited outside of a recreational camping vehicle park shall comply with the following:

#### **1. Purpose**

This law has been enacted for the purpose of promoting the health, safety and general welfare of the inhabitants of the Town of Constantia through the efficient regulation of recreational camping vehicles (“RVs”) and to provide minimum standards and procedures for their placement, water supply, sewage disposal, and use.

#### **2. Standards**

- RVs must be registered/licensed
- Occupied RV's must be permitted annually by the Town of Constantia
- Conforming building lot sizes required, including set back requirements for occupied RV's
- Temporary, occupied, site placement of an RV is 2 weeks
- Conditional, occupied, site placement exceeding 2 weeks, not to exceed 120 days, approved sewage disposal systems will be required
- Exemptions for special events
- Storage allowed for 1 RV at a permanent residence
- No storage allowed on vacant land
- Storage of more than one RV is allowed inside permitted storage facilities
- Storage Facility permits will not be issued for residential properties
- No RV shall be used as an addition to a residential or commercial building
- No RV shall be used for the purpose of housing animals (domestic, wild/or farm)
- Wood stoves shall not be permitted in any RV
- No structural modifications or additions may be made to an individual RV sited on private land outside of a recreational camping vehicle park or campground

### 3. Procedures

- a. Such siting and occupancy of a RV on private land outside of a campground shall be subject to a permit, issued by code enforcement officer, subject to annual renewal, which term shall run from January 1 to December 31.
- b. The applicant shall provide a completed application form and permit fee to the code enforcement officer. The completed application form shall include a proposed site plan, drawn to scale and indicating all dimensions, and shall show the dimensions of the lot; the location of all existing buildings; and all-natural water courses, ponds, wetlands and floodplains. The application shall indicate the proposed date of siting and removal of the RV. The applicant shall provide information regarding proposed plans for access to potable water and sanitary sewage disposal. Sewage disposal systems are subject to approvals by the Oswego County Health Department.
- c. Prior to any site preparation, the code enforcement officer shall conduct an on-site inspection. To assist the code enforcement officer, the applicant may be required to locate stakes on the site in conformity with information shown on the site plan.
- d. The cost of any site inspections, tests or professional consulting needed to comply with this section shall be paid by the applicant. Upon a determination by the code enforcement officer that the proposal has met all the requirements of this law, the code enforcement officer shall, within seven days, issue the permit. The permit shall be prominently displayed on the RV such that it may be seen from the exterior of the vehicle.
- e. If it is determined by the code enforcement officer that a RV has not been sited in accordance with the site plan as shown in the application, or that any of the conditions of the application have been violated, the issued permit shall be revoked

until such time that the site is corrected to the satisfaction of the code enforcement officer. Upon the revocation of a RV permit, the occupancy of the RV shall be immediately terminated, and the RV shall be removed from the premises.

- f. Any RV on private land which is not in compliance as of the date of adoption of this law or subsequent amendments shall have until December 31, 2020 to come into compliance.

#### 4. Exemption/Waiver

- Special events will be exempt from the Recreational Camping Vehicle law, but not from the New York State Sanitary Code and may still require additional permits from the Oswego County Health Department. This involves events that are held for a short period of time, 1 to 2 days, but not to exceed 7 days on residential properties and/or properties with buildings. A special event could be a Ceremonial Gathering (i.e. Weddings, Church Event, Family Reunions); Sports Event (i.e. Race, Fishing Derby's, Bike/Car Rallies); Culture Events (i.e. Concerts). Special Events that have **3** or more RVs on the premises, the property owner must provide a suitable sanitary facility. The property owner shall not charge fees for placing RVs on the property; otherwise they will have to abide by current laws and regulations for operating an approved campground. RVs remaining on the premises beyond 7 days will be subject to a fine of not less than \$100.00. To obtain this Exemption/Waiver, a Special Event permit must be filed with the Constantia Code Enforcement Officer not less than 7 days prior to the event. Failure to file for a permit will result in a fine of not less than \$100.00.
- Separate permitting may be issued for the use of an RV by licensed hunters during the hunting season which is typically September through December.”
- Licensed commercial businesses dealing with RV's in the course of business are exempt from this section, (inspection, repair, sales, service, and repossession business) are examples.
- RV Storage facilities are exempted from this section but must be permitted by the Town of Constantia.

### **Article 10-A Regulation of Storage Trailers and Containers in the Town of Constantia**

#### **Section 1010-A. Purpose.**

This Article is adopted to improve and promote the health, safety and general welfare of the community, including the protection and preservation of property of the Town and its inhabitants by regulating the placement of storage trailers or containers on both private and public land within the Town of Constantia.

#### **Section 1010-A.1. Definitions**

**LONG-TERM STORAGE** - The storing or warehousing of goods, equipment, parts and materials for an extended period of time or a period of time exceeding six months.

**STORAGE TRAILER** - Any enclosed vehicle, semi-trailer, large van or bus (either motorized or designed to be pulled by an automobile or truck) which is or was originally intended for the hauling of freight, people, goods or equipment over the road.

**PORTABLE STORAGE CONTAINER** – For the purposes of this Article, the term “portable storage container” shall mean any temporary, transportable, movable or portable container, which is delivered to and placed outdoors on private property for storage purposes. A portable storage container does not include any of the following: (1) a **debris dumpster or construction trailer**; (2) a temporary construction trailer or other trailer subject to a temporary use permit under

**Section 1010-A.2. Standards.**

1. It is prohibited to utilize a storage trailer or portable storage container for the purpose of long-term storage (or any other function other than its original intended use) on any property, both public and private, within the Town of Constantia.
  - a. No storage trailer or portable storage container shall be used as an addition to a residential or commercial building or as a container home or any other living quarters.
  - b. No storage trailer or portable storage container shall be used for the purpose of housing animals (domestic, wild/or farm).
  - c. Wood stoves shall not be permitted in any storage trailer or portable storage container.
2. The use of a storage trailer or portable storage container on residential properties for the purpose of storing materials, goods, parts and equipment on only those properties where it is verified by the Code Enforcement Officer that construction and/or development is taking place will be permitted only after a temporary permit has been issued.
3. A temporary permit shall be required prior to the placement of any storage trailer or container on public or privately owned property which is undergoing development or where construction is taking place. All permits shall be obtained from the Town of Constantia Code Enforcement Officer, at a cost of \$50 each. All permits shall expire six months after the date of issuance. Permits shall be renewable, if necessary, until construction is completed or the project has been terminated or abandoned. The cost of each renewal permit shall be \$50.
4. The contents of all storage trailers or portable storage containers shall be reported, using the guidelines of § 209-u of New York State General Municipal Law. Two copies of the Hazardous Materials Report form shall be filed prior to issuance of a permit. One copy is to be sent to the local Fire Dispatcher. The second copy is to be attached to the application for the permit.
5. All warning placards which would have been required for the contents under Federal Department of Transportation guidelines, as covered in the Code of Federal Regulations, Title 49, Parts 100-199 (49 CFR 100-199), shall be posted and remain in place during the entire time of storage.

6. It shall be the responsibility of the Code Enforcement Officer or his duly authorized representative to enforce the provisions of this Article.

**Section 1010-A.3. Violations.**

1. Notice of violation shall be served to the owner(s), applicant(s), executor(s), legal representatives, agents or any other person having ownership and/or a vested interest in the property (as shown on the Town's most recent assessment roll) on which the violation is located. If no such person can be reasonably found, notice of violation shall be served by mailing to such owner(s), applicant(s), executor(s), legal representatives, agents or any other person having ownership and/or a vested interest in the property, by registered mail, a copy of such notice to his/her last known address.
2. If the owner(s), applicant(s), executor(s), legal representatives, agents or any other person having ownership and/or a vested interest in the property of the property has not properly removed and/or disposed of the storage trailer within 30 days of the date the notice was issued it will be declared an offense and subject to the following mandatory penalties identified in subsection 3 below. In situations where more than one storage trailer or portable storage container is found to occupy the property, each storage unit shall constitute a separate offense.
3. Any person, firm or corporation permitting any storage trailer or portable storage container to remain parked or stored on his or her property, as defined in the provisions of this Code, shall be, upon conviction, punishable by a mandatory fine not less than \$25 but not more than \$50 daily for each violation.

**SECTION 4. SEVERABILITY.**

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this Local Law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Local Law.

**ARTICLE 11. MANUFACTURED HOME PARKS**

**Section 1110 - Park Location and Conditions**

The proposed manufactured home park:

- a. shall be located where orderly development of a manufactured home park can be undertaken in harmony with development of the surrounding area in terms of traffic generation, ease and safety of vehicular access to and circulation within the park, safety of pedestrian movement, location of structures, adequacy of off-road parking, placement and sizing of sewage treatment and water supply systems and other utilities, safety of fuel storage and supply, provision of open space, recreation facilities or areas, delivery of services and adequacy of landscaping and buffering;
- b. shall have generally level to gently rolling topography over an area of sufficient size to allow development of the manufactured home park in compliance with this law without significant alteration or disturbance of existing natural amenities or features such as

- stands of mature trees, stream courses, shorelines, wetlands, or bedrock outcroppings;  
and
- c. shall be essentially free from adverse, unsafe or unhealthful conditions including, but not limited to, flooding, ponding, poor drainage, erosion, slumping or other soil instability, breeding areas for insects or rodents, smoke, noise, odors, heat, glare, or toxic or volatile substances.
- d. Recreational camping vehicles shall not be parked, whether permanently or temporarily, in any manufactured home park. Manufactured home parks shall be separated from recreational camping vehicle parks by a minimum distance of 250 feet.
- e. No manufactured home park shall be less than three acres in size.

**Section 1114 - Manufactured Home Sites**

Each manufactured home park shall be divided (exclusive of internal roads, open space or common areas) and marked-off into manufactured home sites numbered consecutively, the number being conspicuously posted on each lot with such number to correspond to the lot shown on the site plan submitted. Each manufactured home site shall satisfy the following requirements:

- a. minimum site size shall be 12,000 square feet. In special cases where innovative park design for manufactured home parks of ten or more manufactured homes provides clustering and allows for wide roads or a greater amount of usable recreation area or open space exceptions may be granted. In no case, however, shall be site area be reduced below 9,000 square feet.
- b. minimum 100 foot site width. Where exceptions have been made as provided in a. above, minimum 75 foot site width; and,
- c. minimum 120 foot site depth.

**Section 1115 - Manufactured Home Setbacks and Spacing**

- a. All manufactured homes, including expansions, extensions or other additions thereto, patios, porches or garages and all other structures in a manufactured home park shall satisfy the following setback requirements. A detached structure accessory to and located on, the same site with an individual manufactured home shall be considered part of the manufactured home for the purpose of spacing requirements.
  - (1) minimum of 150 feet from the centerline of any public road.
  - (2) minimum of 35 feet from the center line of any roadway internal to the manufactured home park.
  - (3) minimum of 40 feet spacing between adjacent manufactured homes and any other structures in the manufactured home park.
  - (4) minimum of 20 feet from rear site lines.
- b. No internal roadway, parking lot, recreation area or storage facility for fuels, supplies or equipment shall be located within 50 feet of an adjoining property line.
- c. The setback area shall be seeded and adequately landscaped to provide a screen from the roadway.

**Section 1116 - Manufactured Home Park Access**

Each manufactured home park shall provide for safe, legal means of access from one or more public roads as follows:

- a. access roads shall meet the public roads at right angles and at compatible grades;
- b. entrances shall be located directly opposite a three-way intersection or at least 200 feet

- from a four-way intersection of public roads, if any, and at least 150 feet from any other entrances to the manufactured home park, if any;
- c. entrances shall have sufficient width to allow reasonable turning movements of vehicles with manufactured homes attached and of service or delivery vehicles;
  - d. entrances shall be located to allow safe line-of-sight distances to and from their points of intersection with the public road;
  - e. at least one common entrance and access road shall be required to serve any manufactured home park having three or more manufactured homes;
  - f. at least two independent entrances and access roads shall be required to serve any manufactured home park having 20 or more manufactured homes; and
  - g. access roads shall meet town road standards for minor roads.

#### **Section 1117 - Manufactured Home Park Internal Roads**

- a. Internal roads shall be privately owned and maintained and shall provide for the safe and convenient movement of vehicles, with or without manufactured homes attached.
- b. All manufactured home sites shall face on and be serviced by such internal roads.
- c. All roads shall be designed, graded, and leveled as to permit the safe passage of emergency and other vehicles at a speed of 15 miles per hour.
- d. Circular cul de sacs shall be provided in lieu of closed end roads with a turn around having an outside roadway diameter of at least 150 feet.
- e. Private, interior roadways shall be adequately lighted.

#### **Section 1118 - Manufactured Home Park Parking**

- a. Each manufactured home shall be provided with at least two off-road parking spaces adjacent to the manufactured home.
- b. At least one additional off-road parking space for each three manufactured homes in the manufactured home park shall be provided to accommodate guest parking, service or delivery vehicles, boat or camp trailer storage or other parking or storage demand. Such spaces shall be in centrally located parking areas without interfering with the traffic circulation of internal roads.
- c. Each parking space shall measure at least nine feet by 20 feet.
- d. Parking spaces or areas shall have at least eight inches of crushed stone base or two inches of pavement over four inches of crushed stone base.

#### **Section 1119 - Manufactured Home Park Recreational Areas and open Space**

Easily accessible and usable open spaces shall be provided in all manufactured home parks. Such open space shall have a total area equal to at least 15% of the gross land area of the park and shall be fully maintained by the park owner. Part or all of such space shall be in the form of developed recreation areas to be usable for active recreation purposes.

#### **Section 1120 - Manufactured Home Park Walkways**

A four foot wide hard surfaced pedestrian walkway may be provided along and at least five feet from each access road between the entrance to the public highway and either the first manufactured home unit or such location within the manufactured home park, as may be required by the Planning Board, to assure pedestrian safety.



### **Section 1121 - Manufactured Home Park Water Supply**

An adequate supply of water shall be provided for all manufactured homes and service buildings. Where public water is available, connection shall be used exclusively, unless local authorities deem otherwise. If a public water system is not available, the development of a private water supply system shall be approved by the Oswego County Health Department and all applicable state agencies.

### **Section 1122 - Manufactured Home Park Sewage**

An approved sewage system shall be provided in all manufactured home parks for the conveying, disposing, and treatment of sewage from manufactured homes, service buildings, and other accessory facilities. Such system must be designed, constructed, and maintained in accordance with the New York State Department of Health and Oswego County Health Department standards and regulations.

### **Section 1123 - Manufactured Home Park Garbage and Refuse**

Each manufactured home lot shall be provided with at least two 20-gallon metal or plastic garbage cans with tight fitting covers. The cans shall be kept in a sanitary condition at all times. It shall be the responsibility of the park owner to ensure that garbage and rubbish shall be collected and properly disposed of outside of the manufactured home park. Exterior property areas shall be maintained free from organic and inorganic material that might become a health, accident, or fire hazard.

### **Section 1124 - Manufactured Home Park Fuel Supply and Storage**

1. Refer to standards and requirements of Section 440.5 of this law.

### **Section 1125 - Manufactured Home Park Electrical Service**

- a. Every manufactured home park shall contain an electrical wiring system consisting of wiring fixtures, equipment and appurtenances which shall be installed and maintained in accordance with local electric power companies' specifications and regulations. All wiring fixtures must have the New York Board of Fire Underwriters' approval.
- b. Each manufactured home stand shall be supplied with not less than a 100 ampere service.
- c. Adequate lights shall be provided to illuminate roads, driveways, and walkways, for the safe movement of vehicles and pedestrians at night. A minimum lighting level of 0.3 foot candles shall be provided.
- d. All electrical distribution lines shall be placed underground.

### **Section 1126 - Manufactured Home Park Telephone Service**

When telephone service is provided to manufactured home sites, the distribution system shall be placed underground.

### **Section 1127 - Manufactured Home Park Office and Storage Facilities**

Owner or manager of a park shall maintain office and storage facilities in the immediate vicinity of the park.

### **Section 1128 - Manufactured Home Park Storage Facilities**

Each manufactured home park shall provide 125 cubic feet of secure storage space for each individual manufactured home. Such facilities shall be located either on the individual manufactured home site or be a permanent structure within the manufactured home park which is easily accessible to the park residents at all times.

### **Section 1129 - Manufactured Home Park Service Buildings**

Service buildings, if provided, housing sanitation facilities and/or laundry shall be permanent structures complying with all applicable ordinances and statutes regulating buildings, electrical installations and plumbing and sanitation systems. All service buildings and the grounds of the manufactured home park shall be well lighted and maintained in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or constitute a nuisance.

### **Section 1130 - Manufactured Home Park Fire Protection and Control**

No open fires shall be permitted any place within the manufactured home park with the exception of outdoor grills used for the preparation of foods.

### **Section 1132 – Utilities**

Proper planning and early communication with utility company is recommended to provide necessary easements by utility companies, i.e., gas, electricity, and telephone.

### **Section 1133 - Responsibilities of Manufactured Home Park Operators and Park Occupants**

- a. The person to whom a permit for a manufactured home park is issued shall operate the park in compliance with the standards set forth in this local law and shall provide adequate supervision to maintain the park, its common grounds, roads, facilities, and equipment in good repair and in a clean and sanitary condition.
- b. The park operator shall place or supervise the placement of each manufactured home stand which includes ensuring its stability by securing all tie-downs and installing all utility connections.
- c. The park operator shall maintain a register containing the names of all occupants and the make, year, and serial number, if any, of each manufactured home. Such register shall be available to any authorized person inspecting the park.
- d. The park occupant shall be responsible for the maintenance of his manufactured home and any appurtenances thereto, and shall keep all yard space on his site in a neat and sanitary condition.
- e. A list of operator and occupant responsibilities shall be posted in the park office or made available upon request.

## **ARTICLE 12. MANUFACTURED HOME PARK AND CAMPGROUND LICENSE**

### **Section 1210 – Applicability**

Any new manufactured home park or modifications or expansion to the original manufactured

home park or recreational camping vehicle park site, as shown on the approved application form, shall require a license. The procedure for this license shall be the same as for a newly proposed park. Expansion of a park existing prior to the effective date of this local law shall also require a license. Violation of this section may result in the revocation of any existing license.

#### **Section 1220 – Renewal**

The manufactured home park license shall be renewed prior to July 1<sup>st</sup> of each year, and it shall be the responsibility of the manufactured home park owner to initiate the renewal procedure no later than June 1<sup>st</sup> of each year. Renewal application forms may be obtained from the enforcement officer. After investigating the site for health and safety irregularities or design modifications, the enforcement officer shall either approve or disapprove the license renewal application in writing.

#### **Section 1230 – Recreational Camping Vehicle Park Permit**

The recreational camping vehicle park permit shall be renewed annually from the original date of approval and it shall be the recreational camping vehicle park owner's responsibility to initiate the renewal procedure by completing the renewal application form and submitting it to the enforcement officer 30 days prior to the expiration of his current permit. After investigating the site for health and safety irregularities or design modifications, the enforcement officer shall either approve or disapprove the permit renewal application.

#### **Section 1240 – Health Department Review**

Prior to the granting of final site plan approval or the renewal of a license for a manufactured home park or recreational camping vehicle park, the park site plan and all modifications shall have been reviewed and approved by the Oswego County Health Department, where applicable.

### **ARTICLE 13. TELECOMMUNICATION TOWERS**

#### **Section 1310 - General**

The Town of Constantia recognizes the increased demand for wireless communications transmitting facilities and the need for the services they provide. Often these facilities require the construction of a telecommunications tower. Telecommunications towers shall be sited in manner consistent with sound land use planning by:

- a. Minimizing visual effects of towers through careful design, siting and vegetative screening;
- b. Avoiding potential damage to adjacent properties from tower failure or falling debris through engineering and careful siting of tower structures; and
- c. Maximizing use of any new or existing tower and encouraging the use of existing buildings and/or structures to reduce the number of towers needed; while also allowing wireless service providers to meet their technological and service objectives for the benefit of the public.

#### **Section 1320 - Enabling Authority**

The planning board is hereby authorized to review and recommend, recommend with modifications, or disapprove site plans for telecommunications towers and facilities consistent

with this law. Final approval, approval with modifications or disapproval of any such site plan shall be made by the town board after review and recommendation by the planning board.

### **Section 1330 - Applicability**

No tower shall hereafter be used, erected, moved, reconstructed, changed or altered except after approval of a site plan application prepared in conformity with these regulations. No existing structure shall be modified to serve as a tower unless in conformity with these regulations.

### **Section 1340 - Application Contents**

An application for site plan approval for telecommunications towers shall be accompanied by the following:

- a. Proof that the space on the facility has been leased or will be operated by a provider licensed by the FCC to provide service in the area,
- b. A duly executed Landowner Consent and Agreement Form,
- c. An applicant Maintenance and Removal Agreement,
- d. A site plan prepared to the standards given in Article 8 of this law, and submitted with the materials required in Article 7 of this law, and
- e. An existing cellular/personal communications services coverage propagation plot showing existing operational neighboring sites up to five mile beyond the boundaries of the town.

### **Section 1350 - Additional Site Plan Elements**

The following additional site plan elements shall be included in an application for a telecommunication tower or facility. These elements shall be reviewed by the planning board when considering the application for site plan review.

- a. Shared use of an existing tower and tower site shall be the preferred location of new antenna(e) or towers. If application is for a new site, the applicant shall present written documentation indicating the location, height, and function of all existing telecommunication towers within a five mile radius of the proposed tower site and correspondence from each tower and site owner indicating their inability to accommodate the applicant's good faith effort to utilize their existing tower and site.
- b. The order of preference for the siting of towers on a new site shall be as follows:
  - (1) On existing nonresidential structures;
  - (2) In land excavation, borrow pit and mine areas;
  - (3) In areas deemed primarily industrial;
  - (4) In areas deemed primarily commercial;
  - (5) In areas deemed primarily rural/agriculture.

Applicant shall provide documentation providing the basis for the site selected. Siting of towers in areas deemed environmentally sensitive or primarily residential is generally prohibited. Applications for such locations shall include documentation demonstrating the technical necessity for this site as opposed to the preferred site locations.

- c. Towers shall be set-back from all lot lines of the parcel and all residences a distance no less than the height of the tower plus 50 feet. Additional set-backs may be required to preserve the privacy and safety of residential and/or public areas.
- d. Preferred tower design shall be as follows:
  - (1) Designed and constructed in a manner which minimizes visual impact to the extent practical;
  - (2) Non-guyed structure;
  - (3) Painted light gray, or in compliance with FAA standards;

- (4) Tower height shall be no greater than that required to provide the required service area coverage and shall be so demonstrated. In no instance shall the tower height be greater than 199 feet.
- e. Signage shall be limited to necessary informational sign(s) located at the tower base.
- f. Site access shall be suitable for emergency vehicles.
- g. Structural engineering drawings for tower and foundation, stamped by a New York State Registered Professional Engineer shall be provided prior to the issuance of a building permit.
- h. Environmental Assessment Form (Long Form EAF) with Visual EAF Addendum and, if applicable, a Draft Environmental Impact Statement (DEIS) as per 6 NYCRR Part 617.
- i. A security bond in the amount of ten percent of the tower, antenna and accessory building(s) assessed value shall be provided to the town clerk prior to the issuance of a building permit to assure the ongoing maintenance and ultimate removal upon its disuse for a period in excess of six months.
- j. A landscaping plan shall be provided with the site plan demonstrating adequate screening and preservation of the area's visual character.
- k. The tower and accessory building(s) shall be suitably fenced to a height of eight feet to preclude unauthorized access. The tower design shall include a non-climbable section for the first ten feet above grade.
- l. All radiating antenna shall conform to FCC regulations regarding radio frequency radiation and applicant shall provide documentation certifying their compliance.
- m. A letter addressed to the planning board must accompany the site plan which is signed and notarized by an authorized representative of the tower owner which states that the tower and tower site will be made available, in good faith and at market rate, for multiple usage by others.
- n. Proof of the landowners consent, if the applicant does not own the property.
- o. The applicant shall in writing identify the location of any additional sites that they are or will be considering or reviewing for telecommunications towers/facilities in the town and all adjacent towns, for a period of two years from date of application and must be updated annually.
- p. All telecommunications facilities shall be located on a single parcel which is in conformance with this law. A lot leased or owned for the purpose of construction of a telecommunications facility/tower shall not result in the creation of a nonconforming lot.
- q. The site plan shall show all of the following, in addition to those items specified in Section 740 and Section 745 of this law:
  - (1) The exact location of the proposed telecommunications facility and/or tower, together with any guy wires and anchors;
  - (2) The maximum height of the proposed tower and accessory facilities;
  - (3) Detail of the tower type (i.e. monopole, guyed, free-standing or other, etc.);
  - (4) The location, type and intensity of any lighting on the tower.
- r. Applicant shall provide USGS topographic map(s) showing the spot location of the proposed tower and all other existing towers within a radius of five miles, for use by the planning board.

## **ARTICLE 14. FINANCIAL GUARANTEES FOR PUBLIC IMPROVEMENTS**

### **Section 1410. Required Public Improvements**

1. All public improvements required pursuant to the approval of special uses shall be constructed and completed to the standards required by state and local laws, rules, and regulations.
2. The construction or installation of any improvements or facilities, other than roads, for which a financial guarantee has been made pursuant to this Section shall be completed within one year from the date of the approval of the subdivision plat or special use. Road improvements shall be completed within two years from the date of approval of the subdivision plat or special use.
3. The applicant may request an extension of time to perform required public improvements provided he can show reasonable cause for inability to construct and install said improvements within the required time. Such extension of time shall not exceed six months. At the end of such extension of time, if the required public improvements are not completed and accepted by the Town, the Town may use as much of the financial security required by this Section to construct and install, maintain, or perfect the improvements as necessary to meet all applicable state and local laws, ordinances, rules, and regulations.
4. At least five days prior to commencing construction of required public improvements, the applicant shall pay to the enforcement officer the inspection fee required by the municipality and shall notify the Town Board or an official designated by the Town Board in writing of the time when the construction of such improvements will be commenced so that the Town Board may cause inspections to be made to assure that all applicable specifications and requirements shall be met in the construction of such improvements, and to assure the satisfactory completion of public improvements required by the Planning Board.

### **Section 1420. Required Financial Security**

Applicants for special use approvals shall provide the Town with acceptable financial security in an amount sufficient to guarantee the installation of basic public improvements. Such public improvements may include public water supply, sewage disposal systems, storm drains and sewers, roads, pavement markings and traffic signs and signals, sidewalks, and other public improvements commonly required of applicants for special use approvals. Acceptable financial security shall be provided to the Town in one of the following ways:

1. The applicant shall furnish a bond executed by a surety company in an amount equal to the cost of construction of the public improvements required by the Planning Board pursuant to this law.
2. The applicant shall present to the enforcement officer a certified check in an amount equal to the cost of construction of the public improvements required by the Planning Board pursuant to this law.
3. The applicant shall present to the enforcement officer an irrevocable letter of credit drawn in favor of the Town in an amount equal to the cost of construction of the public improvements required by the Planning Board pursuant to this law.

### **Section 1430. Review of Proposed Financial Security**

For each of the above options, the required public improvements shall be shown on subdivision plats or special use, and the total amount of the required financial security shall be based thereon. Such estimates shall be certified by a licensed professional engineer, and shall be reviewed by the Town Board for financial adequacy as a guarantee of construction and of reasonable performance during a warrantee period. The Town Board and the Town Attorney shall jointly review the guarantee agreement for sufficiency of form and execution and for the soundness of the financial guarantee offered by the applicant.

#### **Section 1440. Schedule of Improvements**

When a guarantee agreement has been approved by the Town Board and the required surety bond, certified check, or letter of credit has been received by the enforcement officer, the Town and the applicant shall enter into a written agreement itemizing the required public improvements, establishing a schedule for the construction and installation of such improvement, and itemizing the cost of construction and installation for each improvement. Whenever feasible, costs shall be organized by logical phases of work completion in order to facilitate the partial release of funds held as a financial guarantee by the municipality to the applicant as work is satisfactorily completed.

#### **Section 1450. Staged Refunding of Financial Guarantees**

At such times as the applicant wishes to have guarantee funds released in consideration of work performed and accepted, the applicant shall cause to be prepared an accurate statement of the work performed and accepted as of a date certain. This statement shall use the same item structure as was employed in the written agreement itemizing the required public improvements. The applicant, after preparing such statement, shall submit it for review, approval, and signature by an engineer acting on behalf of the town, by the appropriate municipal inspectors, and by the Town fiscal officer. If the statement is approved by the Town fiscal officer, the statement shall be forwarded promptly to the enforcement officer, together with a recommendation that the amount approved on said statement be released from the financial guarantee provided by the applicant. Where the financial guarantee provided by the applicant makes staged refunding possible, the enforcement officer will then direct in writing to the surety company of financial institution having custody of the guarantee funds to release the approved amount of those funds to the applicant.

#### **Section 1460. Acceptance of Required Public Improvements**

When the project inspector, following final inspection of the project, certifies to the Planning Board and the Town Board that all required public improvements have been completed in accordance with all applicable requirements, the Town Board may act by resolution to accept the public improvements.

#### **Section 1470. Required Maintenance Guarantee**

Upon acceptance of the required public improvements, a maintenance guarantee shall be established. All such guarantees shall be for 10% of the financial guarantee originally required of the applicant. The applicant may provide a maintenance guarantee by one of the methods provided for in Section 1420 above, but no maintenance bond shall be for less than \$5,000 (face value). All maintenance guarantees required by this section shall commence immediately upon acceptance of the required public improvements by the municipality and shall extend for two years therefrom or for two years from the June first next succeeding the acceptance of the required public improvements, whichever period is longer.

## **ARTICLE 15. ADMINISTRATION**

### **Section 1500. Definitions**

In this local law, the following terms shall have the meanings shown in this section:

“Assembly Area” shall mean an area in any building, or in any portion of a building, that is primarily used or intended to be used for gathering fifty or more persons for uses including, but not limited to, amusement, athletic, entertainment, social, or other recreational functions; patriotic, political, civic, educational, or religious functions; food or drink consumption; awaiting transportation; or similar purposes.

“Building Permit” shall mean a building permit, construction permit, demolition permit, or other permit that authorizes the performance of work. The term “Building Permit” shall also include a Building Permit which is renewed, amended, or extended pursuant to any provision of this local law.

“Certificate of Compliance” shall mean a document issued by the Town of Constantia stating that work was done in compliance with approved construction documents and the Codes.

“Certificate of Occupancy” shall mean a document issued by the Town of Constantia certifying that the building or structure, or portion thereof, complies with the approved construction documents that have been submitted to, and approved by the Town of Constantia and indicating that the building or structure, or portion thereof, is in a condition suitable for occupancy.

“Code Enforcement Officer” shall mean the Code Enforcement Officer appointed pursuant to section 1501 of this local law.

“Code Enforcement Personnel” shall include the Code Enforcement Officer and all Inspectors.

“Codes” shall mean the Uniform Code and Energy Code.

“Energy Code” shall mean the New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law.

“FCNYS” shall mean the 2020 Fire Code of New York State as currently incorporated by reference in 19 NYCRR Part 1225.

“Fire Safety and Property Maintenance Inspection” shall mean an inspection performed to determine compliance with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference.

“Hazardous Production Materials” shall mean a solid, liquid, or gas associated with semiconductor manufacturing that has a degree-of-hazard rating in health, flammability, or instability of Class 3 or 4, as ranked by NFPA 704 (Standard Systems for Identification of the Hazards of Materials for Emergency Response), and which is used directly in research, laboratory, or production processes which have, as their end product, materials that are not hazardous.

“Inspector” shall mean an inspector appointed pursuant to section 1501 of this local law.



“Mobile Food Preparation Vehicles” shall mean vehicles that contain cooking equipment that produces smoke or grease-laden vapors for the purpose of preparing and serving food to the public. Vehicles intended for private recreation shall not be considered mobile food preparation vehicles.

“Operating Permit” shall mean a permit issued pursuant to section 1508 of this local law. The term “Operating Permit” shall also include an Operating Permit which is renewed, amended, or extended pursuant to any provision of this local law.

“Order to Remedy” shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 1515 of this local law.

“Permit Holder” shall mean the Person to whom a Building Permit has been issued.

“Person” shall include an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

“PMCNYS” shall mean the 2020 Property Maintenance Code of New York State as currently incorporated by reference in 19 NYCRR Part 1226.

“RCNYS” shall mean the 2020 Residential Code of New York State as currently incorporated by reference in 19 NYCRR Part 1220.

“Repair” shall mean the reconstruction, replacement, or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.

“Stop Work Order” shall mean an order issued pursuant to section 1504 of this local law.

“Sugarhouse” shall mean a building used, in whole or in part, for the collection, storage, or processing of maple sap into maple syrup and/or maple sugar.

“Temporary Certificate of Occupancy” shall mean a certificate issued pursuant to section 1505 of this local law.

“Town” shall mean the Town of Constantia.

“Uniform Code” shall mean the New York State Uniform Fire Prevention and Building Code, Subchapter A of Chapter XXXIII of Title 19 of the NYCRR, adopted pursuant to Article 18 of the Executive Law.

#### **Section 1501. Code Enforcement Officers and Inspectors**

(a) The Office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code, and this local law. The Code Enforcement Officer shall have the following powers and duties:

(1) to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits, and the plans, specifications, and construction documents submitted with such applications;

(2) upon approval of such applications, to issue Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits, and to include in terms and conditions as the Code Enforcement Officer may determine to be appropriate Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits;

(3) to conduct construction inspections; inspections to be made prior to the issuance of Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits; fire safety and property maintenance inspections; inspections incidental to the investigation of complaints; and all other inspections required or permitted under any provision of this local law;

(4) to issue Stop Work Orders;

(5) to review and investigate complaints;

(6) to issue orders pursuant to subdivision (a) of section 1515 (Violations) of this local law;

(7) to maintain records;

(8) to collect fees as set by the Town Board of this Town;

(9) to pursue administrative enforcement actions and proceedings;

(10) in consultation with this Town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code, and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code, or this local law; and

(11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law.

(b) The Code Enforcement Officer shall be appointed by the Town Board. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

(c) In the event that the Code Enforcement Officer is unable to serve as such for any reason, another individual shall be appointed by Town Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of their appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.

(d) One or more Inspectors may be appointed by the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code

Enforcement Officer by this local law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

(e) The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Town Board of the Town.

**Section 1502. Building Permits**

(a) Building Permits Required. Except as otherwise provided in subdivision (b) this section, a Building Permit shall be required for any work must conform to the Uniform Code and/or Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation, or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney, or flue in any dwelling unit. No person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Town.

(b) Exemptions. No Building Permit shall be required for work in any of the following categories:

(1) construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses), which are used for tool and storage sheds, playhouses, or similar uses, provided the gross floor area does not exceed 144 square feet;

(2) construction of temporary sets and scenery associated with motion picture, television, and theater uses;

(3) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(4) installation of partitions or movable cases less than 5'-9" in height;

(5) painting, wallpapering, tiling, carpeting, or other similar finish work;

(6) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;

(7) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or

(8) repairs, provided that the work does not have an impact on fire and life safety, such as (i) any part of the structural system; (ii) the required means of egress; or (iii) the fire protection system or the removal from service of any part of the fire protection system for any period of time.

(c) Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in

subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

(d) Applications for Building Permits. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

- (1) a description of the location, nature, extent, and scope of the proposed work;
- (2) the tax map number and the street address of any affected building or structure;
- (3) the occupancy classification of any affected building or structure;
- (4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (5) at least 2 sets of construction documents (drawings and/or specifications) which (i) describe the location, nature, extent, and scope of the proposed work; (ii) show that the proposed work will conform to the applicable provisions of the Codes; (iii) show the location, construction, size, and character of all portions of the means of egress; (iv) show a representation of the building thermal envelope; (v) show structural information including but not limited to braced wall designs, the size, section, and relative locations of structural members, design loads, and other pertinent structural information; (vi) show the proposed structural, electrical, plumbing, mechanical, fire-protection, and other service systems of the building; (vii) include a written statement indicating compliance with the Energy Code; (viii) include a site plan, drawn to scale and drawn in accordance with an accurate boundary survey, showing the size and location of new construction and existing structures and appurtenances on the site, distances from lot lines, the established street grades and the proposed finished grades, and, as applicable, flood hazard areas, floodways, and design flood elevations; and (ix) evidence that the documents were prepared by a licensed and registered architect in accordance with Article 147 of the New York State Education Law or a licensed and registered professional engineer in accordance with Article 145 of the New York State Education Law and practice guidelines, including but not limited to the design professional's seal which clearly and legibly shows both the design professional's name and license number and is signed by the design professional whose name appears on the seal in such a manner that neither the name nor the number is obscured in any way, the design professional's registration expiration date, the design professional's firm name (if not a sole practitioner), and, if the documents are submitted by a professional engineering firm and not a sole practitioner professional engineer, the firm's Certificate of Authorization number.
- (6) Applications requiring site plan review by the Planning Board shall be submitted in conformity with the provisions of Article 7 of the Town's Land Development Law.

(e) Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (d) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp, or in the case of electronic media, an electronic marking. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.

(f) Issuance of Building Permits. An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

(g) Building Permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.

(h) Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.

(i) Time limits. Building Permits shall become invalid unless the authorized work is commenced within twelve (12) months following the date of issuance. Building Permits shall expire twelve (12) months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.

(j) Revocation or suspension of Building Permits. If the Code Enforcement Officer determines that a Building Permit was issued in error because of incorrect, inaccurate, or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that (1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

(k) Construction in a Town right of way. Permission is required to construct or improve an existing road cut (driveway) in a Town Highway Right of Way. Permission will be granted by the Town provided the project is in the town and public interest. Construction is regulated because of the potential for visual and safety impacts to motorists and pedestrians.

Depending on the size and scope of the project the review process may vary considerably. Any project which requires the use of Town Highway Right of Way shall be brought to the attention of the Code Enforcement Officer prior to planning such project. Permit application and a required fee must be made thirty (30) days prior to start of construction

(l) Fee. The fee specified in or determined in accordance with the provisions set forth in section 1516 (Fees) of this local law must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

**Section 1503. Construction Inspections**

(a) Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The Permit Holder shall notify the Code Enforcement Officer when any element of work described in subdivision (b) of this section is ready for inspection.

(b) Elements of work to be inspected. The following elements of the construction process shall be inspected, where applicable:

(1) work site prior to the issuance of a Building Permit;

(2) footing and foundation;

(3) preparation for concrete slab;

(4) framing;

(5) structural, electrical, plumbing, mechanical, fire-protection, and other similar service systems of the building;

(6) fire resistant construction;

(7) fire resistant penetrations;

(8) solid fuel burning heating appliances, chimneys, flues, or gas vents;

(9) inspections required to demonstrate Energy Code compliance, including but not limited to insulation, fenestration, air leakage, system controls, mechanical equipment size, and, where required, minimum fan efficiencies, programmable thermostats, energy recovery, whole-house ventilation, plumbing heat traps, and high-performance lighting and controls;

(10) installation, connection, and assembly of factor manufactured buildings and manufactured homes; and

(11) a final inspection after all work authorized by the Building Permit has been completed.

(c) Remote inspections. At the discretion of the Code Enforcement Officer or Inspector authorized to perform construction inspections, a remote inspection may be performed in lieu of an in-person inspection when, in the opinion of the Code Enforcement Officer or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or by such authorized Inspector that the elements of the construction process conform with the applicable requirements of the Uniform Code and Energy Code. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.

(d) Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to the manner in which the work fails to comply with the Uniform Code or Energy Code, including a citation to the specific code provision or provisions that have not been met. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

(e) Fee. The fee specified in or determined in accordance with the provisions set forth in section 1516 (Fees) of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

#### **Section 1504. Stop Work Orders**

(a) Authority to issue. The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section. The Code Enforcement Officer shall issue a Stop Work Order to halt:

(1) any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(2) any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(3) any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked.

(b) Content of Stop Work Orders. Stop Work Orders shall (1) be in writing, (2) be dated and signed by the Code Enforcement Officer, (3) state the reason or reasons for issuance, and (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.

(c) Service of Stop Work Orders. The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by certified mail. The

Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

(d) Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder, and any other Person performing, taking part in, or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order, other than work expressly authorized by the Code Enforcement Officer to correct the reason for issuing the Stop Work Order.

(e) Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under section 1515 (Violations) of this local law or under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

#### **Section 1505. Certificates of Occupancy and Certificates of Compliance**

(a) Certificates of Occupancy and Certificates of Compliance required. A Certificate of Occupancy or Certificate of Compliance shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy or Certificate of Compliance.

(b) Issuance of Certificates of Occupancy and Certificates of Compliance. The Code Enforcement Officer shall issue a Certificate of Occupancy or Certificate of Compliance if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure, or work prior to the issuance of a Certificate of Occupancy or Certificate of Compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy or Certificate of Compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy or Certificate of Compliance:

(1) a written statement of structural observations and/or a final report of special inspections,

(2) flood hazard certifications,



(3) a written statement of the results of tests performed to show compliance with the Energy Code, and

(4) where applicable, the affixation of the appropriate seals, insignias, and manufacturer's data plates as required for factory manufactured buildings and/or manufactured homes.

(c) Contents of Certificates of Occupancy and Certificates of Compliance. A Certificate of Occupancy or Certificate of Compliance shall contain the following information:

- (1) the Building Permit number, if any;
- (2) the date of issuance of the Building Permit, if any;
- (3) the name (if any), address and tax map number of the property;

(4) if the Certificate of Occupancy or Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy or Certificate of Compliance is issued;

- (5) the use and occupancy classification of the structure;
- (6) the type of construction of the structure;
- (7) the occupant load of the assembly areas in the structure, if any;

(8) If the automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;

(9) any special conditions imposed in connection with the issuance of the Building Permit; and

(10) the signature of the Code Enforcement Officer issuing the Certificate of Occupancy or Certificate of Compliance and the date of issuance.

(d) Temporary Certificate of Occupancy. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate of Occupancy allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate of Occupancy unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate of Occupancy, may be occupied safely, (2) that any required fire and life safety components, such as fire protection equipment and fire, smoke, carbon monoxide, and heat detectors and alarms are installed and operational, and (3) that all required means of egress from the structure have been provided. The Code Enforcement Officer may include in a Temporary Certificate of Occupancy such terms and conditions as he or she deems necessary or appropriate to ensure the health and safety of the persons occupying and using the building or structure and/or performing further construction work in the building or structure. A Temporary Certificate of Occupancy shall be effective for a period of time, not to exceed six (6) months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate of Occupancy. During the specified period of effectiveness of the Temporary Certificate of Occupancy, the Permit Holder shall undertake to

bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

(e) Revocation or suspension of certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy, Certification of Compliance, or a Temporary Certificate of Occupancy was issued in error or on the basis of incorrect information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.

(f) Fee. The fee specified in or determined in accordance with the provisions set forth in section 1516 (Fees) of this local law must be paid at the time of submission of an application for a Certificate of Occupancy, Certificate of Compliance, or for Temporary Certificate of Occupancy.

**Section 1506. Notification Regarding Fire and Explosion**

The chief of any fire department providing firefighting services for a property within this Town shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel burning appliance, chimney, or gas vent.

**Section 1507. Unsafe Buildings, Structures, Equipment and Conditions Of Imminent Danger**

Unsafe buildings, structures, and equipment and conditions of imminent danger in this Town shall be identified and addressed in accordance with the following procedures:

(a) Definitions. The following words and phrases, as used in this section, shall have the meanings hereinafter ascribed to them. All other words and phrases shall have the meanings normally ascribed to them.

(1) Board. The duly elected and constated Town Board of the Town of Constantia, or also "Town Board."

(2) Building. Any house, shed, fence, or other man-made structure, or part of any such house, shed, fence, or structure.

(3) Dangerous or Unsafe. Includes conditions of structures or buildings such as but not limited to the following:

(i) Those who interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

(ii) Those which, exclusive of foundation, show 33% or more of damage or deterioration of the supporting member or members or 50% of damage or deterioration of the non-supporting enclosing or outside walls or covering.

(iii) Those which have improperly distributed loads upon the floors or

roofs in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.

(iv) Those which have been damaged by fire, wind, or other causes, so as to have become dangerous to life, safety or the general health and welfare of the occupants or the people of this Town.

(v) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to work injury to the health, safety or general welfare of those living therein.

(vi) Those having light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.

(vii) Those having inadequate facilities for egress in cases of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.

(4) Enforcement Officer. The Code Enforcement Officer, or their agent(s), appointed by the Board.

(5) Town. The town of Constantia, New York.

(b) Criteria for declaration of unsafe buildings. For the purpose of this section, an unsafe and dangerous building is declared to be:

(1) Any building which is dangerous to the public health, safety and general welfare because of its condition and which may cause or aid in the spread of disease or injury to the health, safety or general welfare of the occupants of it or the neighboring buildings;

(2) Any building which, because of lack of proper repair, construction or supervision, constitutes or creates a fire hazard;

(3) Any building which because of its condition or because of a lack of proper windows or doors is available to and frequented by malefactors or disorderly persons; or

(4) Any building which is a danger to life and safety as a result of a fire or explosion.

(c) Inspection and report. Any enforcement officer shall inspect or cause to be inspected any building reported as being a dangerous building. The enforcement officer shall then make a written report of such inspection to the Board of their findings and recommendations as to the removal or repair of such building.

(d) Notice to repair or demolish.

(1) Whenever the Code Enforcement Officer finds any building or structure or portion thereof to be an unsafe building, as defined by this section, they shall serve written notice by certified mail, return receipt, or by personal service on the owner of said building or structure or on one of the owner's executors, legal representatives, agents, lessees or other person having a vested or contingent interest in the same, which said notice shall contain:

- (i) A description of the premises.
- (ii) A statement of the particulars in which said building is unsafe.
- (iii) An order requiring the same to be made safe and secure by repair or otherwise or to be demolished and removed within 60 days and that said work shall be commenced within 15 days after service of notice.

(iv) Notice of the time and place for a hearing on the matter before the Board.

(v) A statement that, in the event that said building is determined by the Board to be unsafe, said building shall be made safe and secure by such repairs or other measures which may reasonably be necessary or shall be demolished and removed by the Town, and that all costs and expenses incurred by the Town shall be charged against the owner of said building or assessed against the land on which the building is located.

(2) A copy of said notice shall be filed in the Oswego County Clerk's office in accordance with applicable provisions of law.

(e) Hearing.

(1) Notice of hearing. Such notice shall further provide that, in case the owner and such persons having an interest in the property or structure as herein prescribed wish to contest the order, a hearing will be held before the Board at a time and place specified and that, in the event that such owner or persons having an interest shall fail to contest such order and fail to comply with the same, the Board will order the repair or removal of such building by the Town and that the Town will assess all costs and expenses incurred by the Town in the removal or repair of such building against the land on which such building is located.

(2) Hearing before the Board. At the time and date specified in the notice to repair or demolish, the Board shall conduct the public hearing. It may adjourn from time to time until the hearing is completed and until all interested parties are heard. At the conclusion of the hearing, the Board shall determine whether to revoke the order to repair or remove or to continue said order and direct the owner and other persons to complete the work within a specified time, which shall be reasonable as to the time needed to perform the work and the necessity to protect the general public.

(f) Failure to comply with order; assessment of costs. In the event that the owner and persons in interest shall fail to comply with the final order of the Board to make such building safe and secure or to be removed, the Board shall order such building to be made safe and secure or to be removed and shall assess all costs and expense, including the cost of actually removing such building or structure, against the land on which such building or structure is located.

(g) Continuation as dangerous building prohibited. Any owner or other persons having an interest in the building or in custody of real property located within the Town who allows or permits a building to continue as a dangerous building after due notice as provided in subsections 8(d) through 8(f) of this section shall be guilty of a violation of this section and shall be punished as provided in subsection 8(l) of this section.

(h) Trespassing prohibited; penalty. In addition to serving a notice on the owner as provided in subsections 8(d) through 8(f) above, the Board may, if it determines that the purposes of this section will be further effectuated, order that no person other than the owner or his agent shall enter upon the

property and shall post on such property signs indicating "no trespassing." When such a determination is made, notice of such fact shall be included in the notice to the owner referred to in subsections 8(d) through 8(f) above. Anyone found trespassing in violation of this subsection shall be liable for a fine not to exceed \$50 for each offense.

(i) Emergency cases. Notwithstanding the foregoing provisions of this chapter, in case there is an immediate danger to the life and safety of any person or property unless a dangerous building or structure is immediately repaired, vacated or demolished and the owner or other responsible person in charge fails to take immediate action or cannot be located with due diligence, the enforcement officer shall report such facts immediately to the Board, and the Board, if it confirms the findings of the enforcement officer, shall cause the immediate repair, vacation or demolition of such unsafe building. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in subsections 8(d) through 8(f) or as hereinafter provided.

(j) Effect of transfer of title. The transfer of title by the owner of premises upon which a dangerous building is located shall be no defense to any proceedings under this section.

(k) Liability for costs. Notwithstanding any provision herein to the contrary, the Board may, at its election, institute suit against the owner of said premises for the direct costs, together with a charge of 50% in addition thereto as compensation to the Town for administering, supervising and handling said work and enter judgment thereon against the owner personally for the aforesaid amount. The imposition and collection of any fine or penalty hereinafter prescribed shall not bar the right of the Town to collect the costs of the removal or repair of any dangerous building as herein prescribed.

(l) Penalties for offenses. Except as provided in subsection 8(h) above, any person found guilty of violating this section shall be punishable by a fine not exceeding \$250 or by imprisonment not exceeding 15 days, or both. Each week that such violation shall continue shall constitute a separate violation.

## **Section 1508. Operating Permits**

(a) Operation Permits required. Operating Permits shall be required for conducting any process or activity or for operating any type of building, structure, or facility listed below:

(1) manufacturing, storing, or handling hazardous materials in quantities exceeding those listed in the applicable Maximum Allowable Quantity tables found in Chapter 50 of the FCNYS;

(2) buildings, structures, facilities, processes, and/or activities that are within the scope and/or permit requirements of the chapter or section title of the FCNYS as follows:

(i) Chapter 22, "Combustible Dust-Producing Operations." Facilities where the operation produces combustible dust;

(ii) Chapter 24, "Flammable Finishes." Operations utilizing flammable or combustible liquids, or the application of combustible powders regulated by Chapter 24 of the FCNYS;

(iii) Chapter 25, "Fruit and Crop Ripening." Operating a fruit- or crop-ripening facility or conducting a fruit-ripening process using ethylene gas;

(iv) Chapter 26, "Fumigation and Insecticidal Fogging." Conducting fumigation or insecticidal fogging operations in buildings, structures, and spaces, except for fumigation or insecticidal fogging performed by the occupant of a detached one-family dwelling;

(v) Chapter 31, "Tents, Temporary Special Event Structures, and Other Membrane Structures." Operating an air-supported temporary membrane structure, a temporary special event structure, or a tent where approval is required pursuant to Chapter 31 of the FCNYS;

(vi) Chapter 32, "High-Piled Combustible Storage." High-piled combustible storage facilities with more than 500 square feet (including aisles) of high-piled storage;

(vii) Chapter 34, "Tire Rebuilding and Tire Storage." Operating a facility that stores in excess of 2,500 cubic feet of scrap tires or tire byproducts or operating a tire rebuilding plant;

(viii) Chapter 35, "Welding and Other Hot Work." Performing public exhibitions and demonstrations where hot work is conducted, use of hot work, welding, or cutting equipment, inside or on a structure, except an operating permit is not required where work is conducted under the authorization of a building permit or where performed by the occupant of a detached one- or two-family dwelling;

(ix) Chapter 40, "Sugarhouse Alternative Activity Provisions." Conducting an alternative activity at a sugarhouse;

(x) Chapter 56, "Explosives and Fireworks." Possessing, manufacturing, storing, handling, selling, or using, explosives, fireworks, or other pyrotechnic special effects materials except the outdoor use of sparkling devices as defined by Penal Law section 270;

(xi) Section 307, "Open Burning, Recreational Fires and Portable Outdoor Fireplaces." Conducting open burning, not including recreational fires and portable outdoor fireplaces;

(xii) Section 308, "Open Flames." Removing paint with a torch, or using open flames, fire, and burning in connection with assembly areas or educational occupancies; and

(xiii) Section 319, "Mobile Food Preparation Vehicles." Operating a mobile food preparation vehicle in accordance with the permitting requirements which are established by local law, as now in effect or as hereafter amended from time to time.

(3) energy storage systems, where the system exceeds the values shown in Table 1206.1 of the FCNYS or exceeds the permitted aggregate ratings in section R327.5 of the RCNYS.

(4) buildings containing one or more assembly areas;

(5) outdoor events where the planned attendance exceeds 1,000 persons;

(6) facilities that store, handle or use hazardous production materials;

(7) parking garages as defined in subdivision (a) of section 1511 of this local law;

(8) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by Town Board of this Town; and

(9) other processes or activities or for operating any type of building, structure, or facility as determined by resolution adopted by the Town Board of this Town.

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.

(b) Applications for Operating Permits. An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

(c) Inspections. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit. Such inspections shall be performed either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or Inspector authorized by the Code Enforcement Officer that the premises conform with the applicable requirements of the Uniform Code and the code enforcement program. Should a remote inspection not afford the Town sufficient information to make a determination, an in-person inspection shall be performed. After inspection, the premises shall be noted as satisfactory and the operating permit shall be issued, or the operating permit holder shall be notified as to the manner in which the premises fail to comply with either or both of the Uniform Code and the code enforcement program, including a citation to the specific provision or provisions that have not been met.

(d) Multiple Activities. In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in their discretion, issue a single Operating Permit to apply to all such activities.

(e) Duration of Operating Permits. Operating permits shall be issued for a specified period of time consistent with local conditions, but in no event to exceed as follows:

(1) One hundred eighty (180) days for tents, special event structures, and other membrane structures;

(2) Sixty (60) days for alternative activities at a sugarhouse;

(3) Three (3) years for the activities, structures, and operations determined per paragraph (9) of subdivision (a) of this section, and

(4) One (1) year for all other activities, structures, and operations identified in subdivision (a) of this section.

The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.

(f) Revocation or suspension of Operating Permits. If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.

(g) Fee. The fee specified in or determined in accordance with the provisions set forth in section 1516 (Fees) of this local law must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

### **Section 1509. Fire Safety and Property Maintenance Inspections**

(a) Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:

(1) at least once every twelve (12) months for buildings which contain an assembly area;

(2) at least once every twelve (12) months for public and private schools and colleges, including any buildings of such schools or colleges containing classrooms, dormitories, fraternities, sororities, laboratories, physical education, dining, or recreational facilities; and

(3) at least once every thirty-six (36) months for multiple dwellings and all nonresidential occupancies.

(b) Remote inspections. At the discretion of the Code Enforcement Officer or Inspector authorized to perform fire safety and property maintenance inspections, a remote inspection may be performed in lieu of in-person inspections when, in the opinion of the Code Enforcement Officer or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or such authorized Inspector that the premises conform with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.

(c) Inspections permitted. In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer



or an Inspector authorized to perform fire safety and property maintenance inspections at any time upon:

(1) the request of the owner of the property to be inspected or an authorized agent of such owner;

(2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or

(3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist;

provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

(d) OFPC Inspections. Nothing in this section or in any other provision of this local law shall supersede, limit, or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control (“OFPC”) and the New York State Fire Administrator or other authorized entity under Executive Law section 156-e and Education Law section 807-b. Notwithstanding any other provision of this section to the contrary, the Code Enforcement Officer may accept an inspection performed by the Office of Fire Prevention and Control or other authorized entity pursuant to sections 807-a and 807-b of the Education Law and/or section 156-e of the Executive Law, in lieu of a fire safety and property maintenance inspection performed by the Code Enforcement Officer or by an Inspector, provided that:

(1) the Code Enforcement Officer is satisfied that the individual performing such inspection satisfies the requirements set forth in 19 NYCRR section 1203.2(e);

(2) the Code Enforcement Officer is satisfied that such inspection covers all elements required to be covered by a fire safety and property maintenance inspection;

(3) such inspections are performed no less frequently than once a year;

(4) a true and complete copy of the report of each such inspection is provided to the Code Enforcement Officer; and

(5) upon receipt of each such report, the Code Enforcement Officer takes the appropriate action prescribed by section 1515 (Violations) of this local law.

(e) Fee. The fee specified in or determined in accordance with the provisions set forth in section 1516 (Fees) of this local law must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

**Section 1510. Complaints**

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this local law, or any other local law, ordinance or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

- (a) performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- (b) if a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in section 1515 (Violations) of this local law;
- (c) if appropriate, issuing a Stop Work Order;
- (d) if a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

**Section 1511. Condition Assessments of Parking Garages**

- (a) Definitions. For the purposes of this section:

- (1) the term “condition assessment” means an on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure;

- (2) the term “deterioration” means the weakening, disintegration, corrosion, rust, or decay of any structural element or building component, or any other loss of effectiveness of a structural element or building component;

- (3) the term “parking garage” means any building or structure, or part thereof, in which all or any part of any structural level or levels is used for parking or storage of motor vehicles, excluding:

- (i) buildings in which the only level used for parking or storage of motor vehicles is on grade;

- (ii) an attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and

- (iii) a townhouse unit with attached parking exclusively for such unit;

- (4) the term “professional engineer” means an individual who is licensed or otherwise authorized under Article 145 of the Education Law to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations;

(5) the term “responsible professional engineer” means the professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report. The use of the term “responsible professional engineer” shall not be construed as limiting the professional responsibility or liability of any professional engineer, or of any other licensed professional, who participates in the preparation of a condition assessment without being the responsible professional engineer for such condition assessment;

(6) the term “unsafe condition” includes the conditions identified as “unsafe” in section 304.1.1, section 305.1.1, and section 306.1.1 of the PMCNYS; and

(7) the term “unsafe structure” means a structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.

(b) Condition Assessments – general requirements. The owner operator of each parking garage shall cause such parking garage to undergo an initial condition assessment as described in subdivision (c) of this section, periodic condition assessments as described in subdivision (d) of this section, and such additional condition assessments as may be required under subdivision (e) of this section. Each condition assessment shall be conducted by or under the direct supervision of a professional engineer. A written report of each condition assessment shall be prepared, and provided to the Town, in accordance with the requirements of subdivision (f) of this section. Before performing a condition assessment (other than the initial condition assessment) of a parking garage, the responsible professional engineer for such condition assessment shall review all available previous condition assessment reports for such parking garage.

(c) Initial Condition Assessment. Each parking garage shall undergo an initial condition assessment as follows:

(1) Parking garages constructed on or after August 29, 2018, shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure.

(2) Parking garages constructed prior to August 29, 2018, shall undergo an initial condition assessment as follows:

(i) if originally constructed prior to January 1, 1984, then prior to October 1, 2019;

(ii) if originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and

(iii) if originally constructed between January 1, 2003 and August 28, 2018, then prior to October 1, 2021.

(3) Any parking garage constructed prior to the effective date of the local law enacting this provision that has not undergone an initial condition

assessment prior to that effective date shall undergo an initial condition assessment prior to June 30, 2023.

(d) Periodic Condition Assessments. Following the initial condition assessment of a parking garage, such parking garage shall undergo periodic condition assessments at intervals not to exceed three (3) years.

(e) Additional Condition Assessments:

(1) If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under subdivision (d) of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an additional condition assessment no later than the date recommended in such condition assessment report.

(2) If the Town becomes aware of any new or increased deterioration which, in the judgment of the Town, indicates that an additional condition assessment of the entire parking garage, or of the portion of the parking garage affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under subdivision (d) of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of the parking garage affected by such new or increased deterioration) to undergo an additional condition assessment no later than the date determined by the Town to be appropriate.

(f) Condition Assessment Reports. The responsible professional engineer shall prepare, or directly supervise the preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the Town within sixty (60) days. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:

(1) an evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;

(2) an evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;

(3) an evaluation and description of the unsafe conditions;

(4) an evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;

(5) an evaluation and description of the corrective options available, including the recommended timeframe for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;

(6) an evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;

(7) the responsible professional engineer's recommendation regarding preventative maintenance;

(8) except in the case of the report of the initial condition assessment, the responsible professional engineer's attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and

(9) the responsible professional engineer's recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the responsible professional engineer in their professional judgment.

(g) Review Condition Assessment Reports. The Town shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the Town shall, by Order to Remedy or such other means of enforcement as Town may deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to paragraphs (2) and (3) of subdivision (f). All repairs and remedies shall comply with the applicable provisions of the Uniform Code. This section shall not limit or impair the right of the Town to take any other enforcement action, including but not limited to suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.

(h) The Town shall retain all condition assessment reports for the life of the parking garage. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking garage, and who provides the Town with a written statement attesting to the fact that he or she has been so engaged, the Town shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The Town shall be permitted to require the owner or operator of the subject parking garage to pay all costs and expenses associated with making such previously prepared condition assessment reports (or copies thereof) available to the professional engineer.

(i) This section shall not limit or impair the right or the obligation of the Town:

(1) to perform such construction inspections as are required by section 1503 (Construction Inspections) of this local law;

(2) to perform such periodic fire safety and property maintenance inspections as are required by section 1509 (Fire Safety and Property Maintenance Inspections) of this local law; and/or

(3) to take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the Town by means of its own inspections or observations, by means of a complaint, or by any other means other than a condition assessment or a report of a condition assessment.

**Section 1512. Climatic and Geographic Design Criteria**

(a) The Code Enforcement Officer shall determine the climatic and geographic design criteria for buildings and structures constructed within this Town as required by the Uniform Code. Such determinations shall be made in the manner specified in the Uniform Code using, where applicable, the maps, charts, and other information provided in the Uniform Code. The criteria to be so determined shall include but shall not necessarily be limited to, the following:

(1) design criteria to include ground snow load; wind design loads; seismic category; potential damage from weathering, frost, and termite; winter design temperature; whether ice barrier underlayment is required; the air freezing index; and the mean annual temperature;

(2) heating and cooling equipment design criteria for structures within the scope of the RCNYS. The design criteria shall include the data identified in the Design Criteria Table found in Chapter 3 of the RCNYS; and

(3) flood hazard areas, flood hazard maps, and supporting data. The flood hazard map shall include, at a minimum, special flood hazard areas as identified by the Federal Emergency Management Agency in the Flood Insurance Study for the community, as amended or revised with:

- (i) the accompanying Flood Insurance Rate Map (FIRM);
- (ii) Flood Boundary and Floodway Map (FBFM); and
- (iii) related supporting data along with any revisions thereto.

(b) The Code Enforcement Officer shall prepare a written record of the climatic and geographic design criteria determined pursuant to subdivision (a) of this section, shall maintain such record within the office of the Code Enforcement Officer, and shall make such record readily available to the public.

**Section 1513. Record Keeping**

(a) The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:

- (1) all applications received, reviewed and approved or denied;
- (2) all plans, specifications and construction documents approved;
- (3) all Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits issued;
- (4) all inspections and tests performed;
- (5) all statements and reports issued;
- (6) all complaints received;
- (7) all investigations conducted;
- (8) all condition assessment reports received;
- (9) all fees charged and collected; and
- (10) all other features and activities specified in or contemplated by sections 1502 through 1512, inclusive, of this local law.

(b) All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

**Section 1514. Program Review and Reporting**

(a) The Code Enforcement Officer shall annually submit to the Town Board of this Town a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in section 1513 (Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.

(b) The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Town, on a form prescribed by the Secretary of State, a report of the activities of this Town relative to administration and enforcement of the Uniform Code.

(c) The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, true and complete copies of the records and related materials this Town is required to maintain; true and complete copies of such portion of such records and related materials as may be requested by the Department of State; and/or such excerpts, summaries, tabulations, statistics, and other information and accounts of its activities in connection with administration and enforcement of the Uniform Code and/or Energy Code as may be requested by the Department of State.

**Section 1515. Violations**

(a) Orders to Remedy. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. An Order to Remedy shall be in writing; shall be dated and signed by the Code Enforcement Officer; shall specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law; shall specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity; and shall include a statement substantially similar to the following:

“The person or entity served with this Order to Remedy must completely remedy each violation described in this Order to Remedy by [specify date], which is thirty (30) days after the date of this Order to Remedy.”

The Order to Remedy may include provisions ordering the person or entity served with such Order to Remedy (1) to begin to remedy the violations described in the Order to Remedy immediately, or within some other specified period of time which may be less than thirty (30) days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within thirty (30) days of the date of such Order to Remedy; and/or (2) to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by this local law or by any other applicable statute, regulation, rule, local law or ordinance, and which the Code Enforcement Officer may deem appropriate, during the period while such violations are being remedied. The Code Enforcement Officer shall cause the Order to Remedy, or a copy thereof, to be served on the owner of the affected property personally or certified mail within five (5) days after the date of the Order to Remedy. The Code Enforcement Officer shall be permitted, but not required, to cause the Order to Remedy, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work being performed at the affected property personally or by certified mail within five (5) days after the date of the Order to Remedy; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

(b) Appearance Tickets. The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.

(c) Penalties. In addition to such other penalties as may be prescribed by State law:

(1) any Person who violates any provision of this local law or any term, condition, or provision of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be punishable by a fine of not more than \$200 per day of violation or imprisonment for a period not to exceed six months, or both fine and imprisonment; and

(2) any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to pay a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this paragraph shall be recoverable in an action instituted in the name of this Town.



(d) Injunctive Relief. An action or proceeding may be instituted in the name of this Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit, Order to Remedy, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this local law, or any Stop Work Order, Order to Remedy or other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of this Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Town Board of this Town.

(e) Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in section 1504 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in section 1504 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 382 of the Executive Law.

**Section 1516. Fees**

A fee schedule shall be established by resolution of the Town Board of this Town. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this local law.

**Section 1517. Interpretation**

In interpreting and applying the provisions of this local law, the acting board shall be held to be the minimum requirements necessary for the promotion of the public health, safety and general welfare.

**Section 1518. Planning Board**

(a) The Town of Constantia Planning Board shall be responsible for implementing the provisions of this local law related to site plan review and subdivision review. No subdivision or site plan shall be approved unless it is in compliance with the requirements of this law.

(b) During the course of site plan review, the Planning Board may waive, subject to their judgment and appropriate conditions, the provisions of any and all site plan review standards that are not requisite in the interest of public health, safety and general welfare or that could cause hardship to the applicant.

(c) The Planning Board shall have the following powers and duties with respect to this local law:

(1) Approval of site plans.

(2) Approval of the issuance of temporary permits by the Code Enforcement Officer.

**Section 1519. Board of Appeals**

(a) Creation, appointment and organization. A Board of Appeals is hereby created and its chairman designated. Said Board shall consist of five members. The Board shall appoint a secretary and shall prescribe rules for the conduct of its affairs. Members of the Board shall be appointed for the term of five years from and after the expiration of the terms of their predecessors in office. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by appointment for the unexpired term. Any member of the Board may be removed for cause and after public hearing.

(b) Meetings. All meetings of the Board of Appeals shall be held at the call of the chairman and at such other times as such Board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of such Board shall be open to the public. Such Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote indicating such fact, and shall also keep records of its examination and other official actions. Every decision or determination of the Board shall be filed in the office of the Town Clerk within five business days and shall be a public record.

(c) Powers and Duties. The Board of Appeals shall have all the powers and duties prescribed by law and by this law, which are more particularly specified as follows:

(1) Interpretation. Upon appeal from a decision by the Enforcement Officer, to decide any question involving the interpretation of any provision of this law.

(2) Use and Area Variances. Upon appeal from a decision by the Enforcement Officer, or upon referral by the planning board, to vary the strict application of any of the requirements of this local law, taking into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. The Board of Appeals shall also consider:

(i) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

(ii) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

(iii) Whether the requested area variance is substantial.

(iv) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

(v) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The Board of Appeals, in the granting of use and area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. The Board of Appeals shall have the authority to impose such reasonable conditions and restrictions on any variance granted as are necessary to minimize any adverse impact such variance may have on the neighborhood or community.

(d) Procedure for Appeal from Land Development Regulation:

(1) The Board of Appeals shall act in strict accordance with the procedure specified by the Town law and by this law. All appeals to the Board shall be in writing, on forms prescribed by the Board. Every appeal shall refer to the specific provision of the law involved, and shall exactly set forth the interpretation that is claimed, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.

(2) Time of Appeal. An appeal to the board shall be taken within sixty days after the filing of the order, requirement, decision, interpretation or determination being appealed.

(3) Stay Upon Appeal. An appeal will halt any further action by any administrative officials, unless an official can show just cause because of imminent peril to life or property, in which case proceedings are not halted unless a restraining order is granted by the Board of Appeals or by a court of record on the application. At that time, the administrative official from whom the appeal was taken shall be notified and due cause shown.

(4) Hearing on Appeal. The Board of Appeals shall fix a reasonable time for the hearing and give public notice by publishing a notice of the hearing in a newspaper of general circulation in the town at least five days prior to the date of the hearing and shall notify the applicant.

(5) Time of the Decision. The Board of Appeals shall decide upon the appeal within 62 days after the hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.

(6) Filing of the Decision. Every decision of the Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case including a record of the vote of each member. The decision of the Board of Appeals on

the appeal shall be filed in the office of the Town Clerk within five business days after the day that the decision is rendered. A copy of the decision shall be mailed to the applicant.

## **Section 1520. Intermunicipal Agreements**

The Town Board of this Town may, by resolution, authorize the Supervisor of this Town to enter into an agreement, in the name of this Town, with other governments to carry out the terms of this local law, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.”

#### **SECTION 4. PARTIAL INVALIDITY/SEVERABILITY**

If any clause, sentence, paragraph, section, article or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operations to the clause, sentence, paragraph, section, article, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

#### **ARTICLE 16. MISCELLANEOUS PROVISIONS**

##### **Section 1610. Amendments**

The Town Board may on its own motion, on petition, after public notice and hearing, amend this local law pursuant to all applicable requirements of law.

##### **Section 1620. Appeals**

Any person aggrieved by any decision of the Town Board or any officer, department, board, or bureau of the Town, may apply to the Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within 30 days after the filing of a decision in the office of the Town Clerk.

##### **Section 1630. Enforcement**

1. Any person, firm, or corporation violates any of the provisions of this law shall, upon conviction, be deemed guilty of a violation, punishable by a fine of not more than \$250, or by imprisonment for a period not exceeding six months, or by both such fine and imprisonment. Each day an offense is continued shall be deemed a separate violation of this law.
2. In addition to the penalties provided above, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this law.

##### **Section 1640. Effect on Other Laws**

No provision in this law shall be interpreted as superseding any greater restriction or regulation contained in any other law of the Town of Constantia, the County of Oswego, the State of New York, the United States of America or any other authorized public body or agency. Any provision of this law which provides stricter or more comprehensive regulations of any use or activity than is provided for in another law of the Town of Constantia, Oswego County, the State of New York or the United States shall supersede the lesser restrictions of the other law or ordinance except that where the authority of the Town to regulate such activities is limited under State or Federal law, such State or Federal law shall take precedence.

## **Section 1650. Severability**

The provisions of this local law are severable. If any article, section, paragraph, or provision of this local law shall be invalid, such invalidity shall apply only to the article, section, paragraph, or provisions adjudged invalid, and the rest of this local law shall remain valid and effective.

## **Section 1660. Effective Date**

## **Section 1710**

New Article 17 of the Land Development Law of the Town of Constantia is hereby amended to include the following definitions:

“SMALL WIND ENERGY SYSTEM” or “ON-SITE USE WIND ENERGY SYSTEM” - A wind energy conversion system consisting of a wind turbine, a tower, and associated controller-conversion electronics which has a rated capacity of no greater than 15 kW for single-family residential related use and no greater than 125 kW (for non-residential and farm applications) and which is intended to reduce on-site consumption of utility power.

“WIND ENERGY CONVERSION SYSTEM” - A machine that converts the kinetic energy in the wind in a usable form (commonly known as a “wind turbine” or “windmill”). The wind energy conversion system or “WECS” includes all parts of the system.

## **Section 1720**

L.D.L. of the Code of the Town of Constantia is hereby created to read as follows:

### **Section 1730 – On-site Use Wind Energy Systems.**

- A. Intent and Purpose. The Town of Constantia through these regulations seeks to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity. The Town of Constantia recognizes that wind energy is an abundant, renewable, non-polluting energy resource and that its conversion to electricity will reduce our dependence on non-renewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources. It is therefore the intent and purpose of these regulations to balance the encouragement of this renewable resource with any impacts such use may have on health, welfare and safety to the community and preserving and protecting the aesthetic qualities of the Town of Constantia.

These regulations relate to small or on-site use wind energy systems and do not address large-scale wind turbines or “wind farms” which are typically intended to sell energy directly to power companies or retail users. Non-small wind energy systems shall require a use variance.

- B. Permits Required. No person, firm or corporation, or other entity being the owner or occupant of any land or premises within the Town of Constantia shall use or permit the use of land or premises for the construction of a tower for on-site use wind energy deriving purposes without obtaining a special use permit issued by the Town and a site plan approval issued by the Planning Board as hereinafter provided.
- C. Special Use Permit. In addition to the criteria established pursuant to L.D.L., the following criteria are hereby established for purposes of granting a special use permit for an on-site use

wind energy conversion system under this chapter:

1. Noninterference. Individual on-site use wind energy conversion systems shall not be installed in any location along the major axis of an existing microwave communications operation where its operation is likely to produce an electromagnetic interference in the link's operation.
2. Proximity to Radio, Television and Telephone Systems. Individual on-site use wind energy conversion systems shall not be installed in any location where its proximity interferes with existing fixed broadcast, retransmission, or reception antennae for radio, television or wireless phone.
3. Prohibited Areas. The waters of Oneida Lake within the jurisdiction of the Town of Constantia.
4. Noise Limitations. The level of noise produced during wind turbine operation shall not exceed 50 dba beyond the present ambient sound levels at pre-construction levels, as measured at the boundaries of the closest parcels that are owned by non-site owners and that abut either the site parcels or any other parcels adjacent to the site held in common by the owner of the site parcel, as those boundaries exist at the time of the special use permit application. The Applicant will be required to submit technical data to the satisfaction of the Planning Board as to this requirement. This obligation shall be a continuing obligation with exceptions only for short-term events such as utility outages and severe windstorms.
5. Height. It is recognized that wind turbines require greater heights to reach elevations with wind currents reasonably adequate to generate energy. On-site use wind energy conversion systems shall not exceed a total height of 80 feet for single-family residential applications ( $\leq 15$  kW) and shall not exceed a total height of 150 feet for non-residential applications (i.e. farm, small business, etc. -  $\leq 125$  kW) from the ground to the top of the highest point of blade height (tip) as extended at its highest vertical point, provided that the application includes specific evidence that the proposed total height does not exceed the height recommended by the manufacturer or distributor of the on-site use wind energy conversion system.
6. FAA Requirements. If the proposed site is near an airport, seaplane base, or established flight zone, such wind energy conversion system must meet all Federal Aviation Administration requirements.
7. Ground Clearance. The minimum distance between the ground and any part of the rotor blade must be 30-feet.
8. Emergency Shutdown/Safety. The Applicant shall post an emergency telephone number so that the appropriate entities may be contacted should any wind turbine need immediate repair or attention. This telephone number should be clearly visible on a permanent structure or post located outside of the fall zone of the tower. Location should be convenient and readily noticeable to someone likely to detect a problem. Further, no wind turbine shall be permitted which lacks automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades, and turbine components or enclosed shelter.

9. Lightning Protection. All energy towers shall have lightning protection.
10. Ownership. Ownership of the wind energy conversion system must be the same as the owner of the fee interest in the real property upon which it is situated. In the event of transfer of ownership of the premises, the ownership of the wind energy conversion system must also be transferred to same or the tower must be decommissioned.
11. Utility Service. All power lines from the wind turbines to on-site interconnection equipment shall be located underground and installed by certified professionals and must meet all applicable national, state and local electrical codes.
12. Lighting. No on-site use wind energy conversion systems under this provision shall be artificially lighted, unless so required by the FAA. Use of nighttime, and overcast daytime conditions, stroboscopic lighting to satisfy tower facility lighting requirements for the Federal Aviation Administration may be subject to on-site field testing before the Planning Board as a prerequisite to the Board's approval with specific request to existing residential uses within 2,000 feet of each tower for which such strobe lighting is proposed.
13. Access Road. To the greatest extent possible, existing roadways shall be used for access to the site and its improvements. In the case of constructing any roadways necessary to access the WECs, they shall be constructed in a way that allows for the passage of emergency vehicles in the event of an emergency. Each application shall be accompanied by correspondence from the responding fire department and emergency care provider as to the acceptability of the proposed ingress and egress to the tower.
14. Security/Anti-Climb Device. The design of each device shall not allow for climbing by the public for a minimum height of 15-feet from the ground.
15. Decommissioning. The Applicant shall submit to the Planning Board a letter of intent committing the owner, and his or her successors-in-interest, to notify the Code Enforcement Officer within thirty (30) days of the discontinuance of the use of the on-site use wind energy conversion system. This letter of intent shall be filed with the Code Enforcement Officer prior to the issuance of a Building Permit. The owner shall remove the obsolete or unused wind turbines and accessory structures within one (1) year of such notification. Failure to notify and/or remove the obsolete or unused tower in accordance with these regulations shall be a violation of this Local Law and the cost of removing the on-site use wind energy deriving tower and accessory structures shall be placed as a lien on the property owner's tax bill. In addition, a reclamation bond shall be filed with the Town Clerk to cover the costs of reclamation of the tower. In addition, should the wind energy conversion system be non-operational for any continuous six (6) month period, the approvals granted shall be deemed void and the wind energy conversion system shall be decommissioned subject to a new approval under this Local Law. Such bond shall be in place prior to the issuance of a special use permit.

The applicant shall be required to execute and file with the Town Clerk a bond, or other form of security acceptable to the Town Attorney and Engineer, in an amount sufficient for the faithful performance of the terms and conditions of the permit issued under this Chapter, and to provide the decommissioning, removal and restoration of the site subsequent to the removal of the windmills. The amount of the bond or security shall be not less than 150% of the cost of the removal of the windmills and restoration of the site.

16. Setbacks. Wind energy conversion systems shall comply with all setbacks within the affected zone. However, in addition all on-site use wind energy conversion systems shall be setback a distance equal to the height of the tower plus blade length plus an additional 25-feet from all property lines, public roads, power lines and pre-existing and future structures. Additional setbacks may be required by the reviewing Board in order to provide for the public's safety, health and welfare, including the possibility of ice thrown from the blades.
  17. Public Hearing. No action shall be taken by the Planning Board to issue site plan approval, nor the C.E.O. to grant a special use permit in relation to an application for an on-site use wind energy system until after public notice and public hearing. Proper notice of a hearing before a Board shall be given by legal notice published in the official newspaper of the Town of Constantia at least five (5) days before the date set for such public hearing(s) and written notice mailed to the Applicant or his agent at the address given in the application to be considered. The Applicant shall be responsible for notifying, by certified mail, all property owners of record within 300-feet of the outside perimeter of the boundary line of the property involved in the application of the time, date and place of such public hearing by mail at least ten (10) days prior to such hearing. Notice shall be deemed to have been given if mailed to the property owner at the tax billing address listed on the property tax records of the Town Assessor or at the property address. At least seven (7) days prior to such hearing, the Applicant shall file with the Board his/her Affidavit of verifying the mailing of such notices. Failure of the property owners to receive such notice shall not be deemed a jurisdictional defect.
  18. Waiver. The Planning Board may, upon exercise of its reasonable discretion, waive one or more of the submission requirements imposed herein.
- D. Site Plan Review. The following submission requirements must be observed regarding a site plan application.
1. Completed application form as supplied by the Town of Constantia for site plan approval for an on-site use wind energy conversion system.
  2. Proof of ownership of the premises involved or proof that the Applicant has written permission of the owner to make such application.
3. A plot plan and development plan drawn in sufficient detail, as prepared by a licensed engineer or surveyor, clearly describing:
- a. Property lines and physical dimensions of the proposed site, including contours at 5-foot intervals;
  - b. Location, approximate dimensions and types of all existing structures and uses on the site;
  - c. Location and elevation of the proposed on-site use wind energy conversion system;
  - d. Location of all existing above-ground utility lines and other on-site use wind energy conversion system within one thousand two hundred (1,200) linear feet of



- the site;
- e. Location and size of structures or trees above 35-feet within a 500-foot radius of the proposed on-site use wind energy conversion system;
  - f. Where applicable, the location of all transmission facilities proposed for installation;
  - g. Location of all roads and other service structures proposed as part of the installation;
  - h. Landscape plan showing all existing natural land features, trees, forest cover and all proposed changes to these features, including size and type of plant material;
  - i. Soil type at construction site.
4. Color. Neutral paint colors (grays) may be required to achieve visual harmony with the surrounding area.
  5. In no event shall more than one (1) on-site use wind energy system be granted for a residential lot, unless a variance is obtained from the Board of Appeals.
  6. All applications shall be accompanied by a full environmental assessment form, including a visual impact analysis. The following additional material may be required by the Planning Board:
    - (i) Digital elevation model-based project visibility map showing the impact of topography upon visibility of the project from other locations, to a distance radius of three (3) miles from the center of the project. Scaled use shall depict a three (3) mile radius as not smaller than 2.7 inches, and the base map shall be a published topographic map showing cultural features.
    - (ii) No fewer than four (4) color photos taken from locations within a three (3) mile radius from the proposed location, as selected by the Planning Board and computer enhanced to simulate the appearance of the as-built aboveground site facilities as they would appear from these locations.
  7. Site Plan Review Criteria. In addition to the above, no site plan shall be approved unless the Planning Board determines that the proposed on-site use wind energy system complies with the following:
    - a. That the use is oriented in its location upon the site, as to layout, coverage, screening, means of access and aesthetics so that:
      - (1) The flow control and safety of traffic and human beings shall not be adversely affected to an unreasonable degree;
      - (2) That there be reasonable compatibility on all respects with any structure or use in the neighborhood, actual or permitted, which may be directly substantially affected;

(3) That there should not be any unreasonable detriment to any structure or use, actual or permitted, in the neighborhood; and

(4) That there be a reasonable provision for open space, yards and recreation areas appropriate to the structure and use.

E. Compliance with Uniform Building Code.

1. Building permit applications shall be accompanied by standard drawings of structural components of the on-site use wind energy conversion system, including support structures, tower, base and footings. Drawings and any necessary calculations shall be certified, in writing, by a New York State Registered Professional Engineer that the system complies with the New York State Fire Prevention and Building Code. This Certification would normally be supplied by the manufacturer.
2. Where the structure, components or installation vary from the standard design or specification, the proposed modification shall be certified by a New York State Registered Professional Engineer for compliance with the Seismic and Structural Design Provisions of the New York State Fire Prevention and Building Code.

F. Compliance with State, Local and National Electric Codes.

1. Building permit applications shall be accompanied by a line drawing identifying the electrical components of the wind system to be installed in sufficient detail to allow for a determination that the manner of installation conforms with the National Electric Code. The application shall include a statement from a New York State Registered Professional Engineer indicating that the electrical system conforms with good engineering practices and complies with the National Electric Code, as well as applicable State and Local Electrical Codes. This certification would normally be supplied by the manufacturer. All equipment and materials shall be used or installed in accordance with such drawings and diagrams.
2. Where the electrical components of an installation vary from the standard design or specifications, the proposed modifications shall be reviewed and certified by a New York State Registered Professional Engineer for compliance with the requirements of the National Electric Code and good engineering practices.

G. Guy Wires. Anchor points for guy wires for the on-site use wind energy conversion system tower shall be located within property lines and not on or across any above-ground electric transmission distribution lines.

H. Insurance. The Applicant, owner, lessee or assignee shall maintain a current insurance policy which will cover installation and operation of the on-site use wind energy conversion system at all times. Said policy shall provide a minimum of \$300,000.00 property and personal liability coverage.

I. Inspections. The Building Inspector and/or Town Engineer shall have the right at any reasonable time to enter, in the company of the owner or his agent, the premises on which a wind energy conversion system is being or is constructed, to inspect all parts of said wind energy conversion system installation and require that repairs or alterations be made if in his judgment, there exists a deficiency in the operation or the structural stability of the system. If necessary, the Building Inspector or Town Engineer may order the system secured or to otherwise cease operation. It

shall not be required that the owner or agent be present in the event of an emergency situation involving danger to life, limb or property.

- J. Power to Impose Conditions. In granting any site plan approval, special use permit or variance for an on-site use wind energy conversion system, the Planning Board, Town of Constantia and Board of Appeals, as the case may be, may impose reasonable conditions to the extent that such Board finds that such conditions are necessary to minimize any adverse effect or impacts to the proposed use on neighboring properties.
- K. Fees. Fees for applications and permits under this Local Law shall be established by resolution of the Town Board of the Town of Constantia.
- L. Waiver. The Planning Board may, under appropriate circumstances, waive one or more of the submission requirements contained herein.

**Section 1740 - Severability.**

If any clause, sentence, paragraph, subdivision, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment is rendered.

**Section 1750 - Effective Date.**

This local law shall become effective immediately.