

Zoning Code
of the
Town of Spafford

Onondaga County, New York

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ARTICLE I
Title, Intent and Definitions

1-1. Title

This Local Law shall be known and cited as the “Zoning Code of the Town of Spafford.”

1-2. Intent

Such Law is made to promote the health, safety, and general welfare of the community and to protect, preserve and enhance the scenic qualities and rural character of the Town of Spafford. To that end, this Law is intended to prevent the overcrowding of land and the undue concentration of population, as well as to support the retention of viable tracts of farmland, the preservation of agricultural land uses and businesses in the Town and Onondaga County. Further, the Law is meant to protect and maintain the integrity of waterfront areas within the Town, which are enjoyed by the Town’s permanent and seasonal residents alike and which areas contribute to the unique and scenic nature of the Town, as well as to promote smart and controlled growth while striking a balance between the interests of property owners and the community as a whole. In order to achieve these objectives, the Law establishes regulations regarding the size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, the density of populations, and the uses of buildings, structures and land that will be permitted in the Town.

1-3. Severability

It is hereby declared to be the legislative intent that:

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

1-4. Repealer

The Town of Spafford Zoning Ordinance adopted in 1973 and all supplements and amendments thereto are hereby repealed. Provided, however, if the present Law is held to be ineffective or invalid by reason or some irregularity in or impediment to its passage, this repealer shall also be ineffective, it being the legislative intention that if the present enactment shall be ineffective, the Town of Spafford Zoning Ordinance together with its supplements and amendments, would necessarily remain in full force and effect.

1-5. Word Usage; Definitions

- A. Unless a contrary intention clearly appears, for the purpose of this Law, the following words and phrases shall have the meanings given in the following clauses.
- B. For the purpose of this Law words and terms used herein shall be interpreted as follows:
- (1) Words used in the present tense include the future.
 - (2) The singular includes the plural.
 - (3) "Person" includes a corporation, partnership, and association as well as the individual.
 - (4) Any use of gender-specific words (his, hers, him, her) shall imply both genders.
 - (5) The word "lot" includes the word "plot" or "parcel."
 - (6) The term "shall" is mandatory.
 - (7) The word "used" or "occupied" as applied to any land or building shall be construed to include the words intended, arranged or designed to be occupied.
- C. Any word or term not defined herein shall be used with a meaning of standard usage.

Adult

Any person eighteen (18) years of age or older. (A minor is any person under the age of 18).

Adult-Oriented Business

Any business enterprise which includes any or all of the following:

- (1) Adult Arcade – Any business enterprise that offers or maintains one or more adult video viewing booths.
- (2) Adult Cabaret – Any business enterprise which regularly features or offers to the public, customers or members, performances by persons who appear nude or seminude or live performances that are characterized by their emphasis on the exposure, depiction or description of specified anatomical areas or the conduct or simulation of specified sexual activities.
- (3) Adult Movie Theater – Any business enterprise which regularly features or offers to the public the presentation of motion-picture films, movies or sound recordings which are characterized by their emphasis on the description or depiction of specified anatomical areas or specified sexual activities and which are presented to a common audience of more than five (5) persons in an enclosed common area or are presented in a common area of more than one hundred fifty (150) square feet.

- (4) Adult Retail Store – A business enterprise that meets any of the following tests:
- a. Offers for sale or rental items from any two (2) of the following categories: sexually oriented materials; lingerie; or leather goods which are marketed or presented in a context to suggest their use in connection with specified sexual activities;
 - b. Offers for sale sexually oriented toys and novelties, except a business enterprise which devotes less than ten percent (10%) of its stock-in-trade and sales and display area to sexually oriented materials, with all sexually oriented toys and novelties separated from other sales and display areas by an opaque wall at least eight (8) feet in height with a management-controlled system of access to ensure that only persons over the age of eighteen (18) years are allowed to enter the area;
 - c. Devotes more than ten percent (10%) of its stock-in-trade or sales and display area to sexually oriented materials without having all sexually oriented materials separated from other sales and display areas by an opaque wall at least eight (8) feet in height with a management-controlled system of access to ensure that only persons over the age of eighteen (18) years are allowed to enter the area;
 - d. Devotes more than forty percent (40%) of its stock-in-trade or sales and display area to sexually oriented materials; or
 - e. Advertises or holds itself out in signage visible from the public right-of-way as “X . . .,” “adult,” “sex” or otherwise as an adult-oriented business.
- (5) Adult Video Viewing Booth – Coin- or slug-operated, or electronically or mechanically controlled, still- or motion-picture machines, projectors or other image-producing devices which present visual or audio material of any kind which is characterized by its emphasis on the description or depiction of specified anatomical areas or specified sexual activities and which are designed to be viewed by five (5) or fewer persons per machine at any one time or are located in a room or booth of less than one hundred fifty (150) square feet. No part of this definition shall be construed to permit more than one person to occupy an adult video viewing booth at any time.

Agricultural-Based Business

Any business that is designed to directly support a farm, farm operation, or multiple farms within the Town. Agricultural Based Businesses may include: Farm Markets, Agritourism, and Direct Marketing businesses. All Agricultural Based Businesses must be consistent with New York State Department of Agriculture and Market rules and regulations.

Agricultural Operations

See “Farming Operations.”

Alley

A narrow service street or passage between properties or buildings.

Alterations

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

Animal Unit

The equivalent of one thousand (1,000) pounds of farm animal.

Apartment

A dwelling unit that consists of one room or multiple rooms connected together, consisting of a separate, independent housekeeping establishment for owner occupancy, rental or lease, and contains independent cooking, living, sanitary and sleeping facilities.

Applicant

Any person, firm, partnership, association, corporation, company or organization of any kind who or which requests the Town Board, the Planning Board or the Zoning Board of Appeals to approve a land use or zoning application.

Area

- (1) Lot Area: The total area contained within the property lines of an individual parcel of land.
- (2) Building Area: The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of covered porches, terraces, and steps.
- (3) Floor Area: The sum of the areas of the several floors of a building, including areas used for human occupancy and basements, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches and attics not used for human occupancy.

Automobile or General Repair

Engine repair, bodywork, frame straightening, painting, upholstering, steam cleaning, electrical work, tune-ups and all other vehicle repair services not specifically listed.

Basement

That portion of a building that is partly or completely below grade. A basement shall be counted as a story for the purpose of height measurement or determining square footage.

Bed & Breakfast

An owner-occupied and -operated private residence, where limited overnight lodging (no more than four guest rooms) and breakfast are provided to guests for compensation.

Berm

An earthen mound designed to provide visual interest, screen undesirable views and/or decrease noise.

Boat Hoist

A mechanical device use to lower a boat into or lift a boat out of the water.

Boathouse

An accessory building for waterfront properties intended to be used solely for the storage of watercraft and watercraft related equipment. Boathouses shall not be used for habitation.

Buffer

A combination of physical space and vertical elements, such as plants, berms, fences or walls, the purpose of which is to separate and screen incompatible land uses from each other and/or to protect wildlife habitats, wetlands, stream corridors and other significant environmental features.

Building

A structure having a roof, which is used or intended to be used for the shelter or enclosure of persons, animals or property.

- (1) Accessory Building: All buildings or structures that are not attached to the principal building and which are incidental and subordinate to the principal building. (Amended by Local Law 2011-2 adopted 5/12/11)
- (2) Principal Building: A building in which the principle use of the lot is conducted, or is intended to be conducted.

Building Area

The aggregate of the areas of all enclosed and roofed spaces of the principal building and all accessory buildings. Such areas shall be computed by using outside building dimensions measured on a horizontal plane at ground level.

Building Height

A vertical distance measured from the mean elevation of the proposed finished grade at the front of the building to the highest point of the building.

Building Coverage

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

Building Permit

See Article II.

Bulk and Use Regulations

The maximum size of a building and its location on a lot as defined by the bulk and use standards appropriate for a specific zoning district.

Cabana

An accessory building, not to exceed one hundred fifty (150) square feet of total floor space, designed to be a recreational support facility. A Cabana shall not be used for habitation.

Campground

A parcel of land used or intended to be used by two (2) or more tents, travel trailers, or other recreational vehicles on a transitory or seasonal basis and conducted as a business or as part of a public use or a private club.

Cellar

A story partly underground and having more than one-half of its height (measured from floor to ceiling) below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories or square footage.

Cemetery

Property used for the interring of the dead.

Certificate of Occupancy

See Article II.

Child Care Facility

A place other than an occupied residence providing or designed to provide day care for children on a regularly scheduled basis for more than three (3) but less than twenty-four (24) hours per day.

Clean Wood

Dry wood (*i.e.*, firewood and lumber) that has not been painted, stained, or treated with any other coatings or preservatives, including, but not limited to, chromated copper arsenate, creosote, alkaline copper quaternary, copper azole or pentachlorophenol.

Club

An organization catering exclusively to members and their guests for recreational, athletic or social purposes which are not conducted primarily for gain, providing that there are not any vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club.

Code Enforcement Officer

The enforcement officer designated by the Town Board to enforce the provisions of this Code, the New York State Uniform Fire Prevention and Building Code and any other similar or related provisions of law.

Commercial Antenna

A system of electrical conductors that transmit or receive electronic frequency signal. Such signals shall include but not be limited to radio, television, cellular, paging and personal communications services (PCS).

Commercial Dog Kennel

A lot or parcel of land where four or more adult dogs are kept, whether by owners of the dogs or by persons providing facilities and care, whether or not for compensation, but not including a small animal hospital, clinic or pet shop. An adult dog is one of either sex, altered or unaltered, that has reached the age of four months.

Commercial Garage

A building used for the storage of motor vehicles and in which repair services are carried on for profit.

Condominium

A building or group of buildings, in which single-dwelling residential units or commercial offices are owned individually while the structure, common areas and facilities are owned jointly by all the owners on a proportional basis.

Conservation Easement

A legal agreement a property owner makes to restrict the type and amount of development that may take place on his or her property. In accordance with Article 49 of New York State Environmental Conservation Law, the easement spells out the rights the landowner retains and

the restrictions on use of the property. Each of these rights and restrictions is negotiated between the landowner and the conservation organization holding the easement.

Convenience Store

A retail sales business that specializes in providing household and personal care products as well as foods. “Convenience stores” may also provide for any or all of the following as an accessory use:

- (1) The rental of multi-media materials, provided that an adult-oriented business is specifically prohibited; and
- (2) The preparation and sales of sandwiches and foods.

“Convenience stores” shall not include the dispensing of gasoline or other motor vehicle fuels unless appropriate approvals for a service station have been obtained.

Coverage

The amount of area occupied by impervious surfaces, such as buildings, asphalt driveways or parking areas.

Curb Level

The mean street grade established by municipal code or, in the absence of an established grade, the mean level of the existing curb or of the lot at the street line.

Deciduous

A plant with foliage that is shed annually.

Deck

A roofless, floored structure, typically with a railing, that adjoins a house.

Deed or Tract Restrictions

Legal language recorded in an instrument in the chain of title for a lot, which describes specifically limitations or restrictions on the use of the property.

Density Standards

The quantity of a particular use allowed at a particular location. The four basic measures include dwelling units per acre, minimum lot sizes, floor-area ratio (FAR), and maximum height restrictions.

Developable Land

Land that can be feasibly developed on a given lot and excludes land that is substantially developed or subject to development constraints set forth by any state, federal, county, or local regulations or adopted environmental studies. At a minimum, the developable land shall exclude areas containing designated federal and state wetlands and their buffer zones, federal floodplains and floodways, federal or state historic sites and any associated buffers, and steep slopes and waterways are their buffer zones, as regulated under this Law.

Dock

A temporary structure, either immobile or floating, which provides access for watercraft, and which allows them to tie-up for a limited amount of time.

Dwelling

A building designed for use exclusively for one or more housing units.

- (1) One Family Dwelling: A building having only one dwelling unit from ground to roof, independent outside access, and open space on all sides.
- (2) Two-Family Dwelling: A building designed for or occupied exclusively by two (2) families living independently of each other in separate units.
- (3) Multiple-Family Dwelling: A building used or designed as a residence for three (3) or more families living independently of each other in separate units.

Easement

An agreement between a private landowner and a municipal agency or a qualified not-for-profit corporation to restrict development, management, or use of land.

Emergency Dwelling

A residential dwelling to be used temporarily for emergency purposes after a residence has been rendered uninhabitable by fire, flood, or by a similar natural or manmade disaster.

Evergreen

A plant with foliage that persists and remains green year-round.

Family

A group of related individuals or a group of no more than four (4) unrelated individuals living together as a single household in a dwelling unit.

Farm

A parcel of land that meets the requirements of Article 25-AA of New York State Agriculture and Markets Law, and is used for agricultural operations.

Farm Pond

Any body of water which is used to enhance the agricultural process, or for fire protection, conservation of water supply, or for flooding or drainage control.

Farm Stand

A structure or vehicle, whose principal use is the seasonal display and sale of agricultural and value added products.

- (1) Agricultural product: Any agricultural or aquacultural product of the soil or water, including but not limited to fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, honey, nuts, preserves, maple sap products, apple cider, and fruit juice.
- (2) Value added: The increase in the fair market value of an agricultural product resulting from the processing of such product.

Farming Operation

The land and on-farm buildings, equipment, and practices which contribute to the production, preparation and marketing of agricultural products that include, but are not limited to field crops, produce, fruits, horticultural specialties, maple sap, Christmas trees, aquaculture products, and wood biomass. Also included are the land and on-farm buildings and equipment for feeding, feed and crop storage, manure processing and handling facilities and practices which contribute to the production, preparation and marketing of livestock and livestock products as a commercial enterprise, including a “commercial horse boarding operation” and “timber processing operation” in accordance with the New York State Department of Agriculture and Markets. Such farming operations may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

Fence

A work or structure consisting of woven wire, woven wood, picket, board or other material, or combination thereof, designed to limit access to an area.

Flammable Liquids

Any liquid which gives off flammable vapors, as determined by the flash point from an open-cup tester as used for test of burning oils, at or below a temperature of eighty (80) degrees Fahrenheit, is flammable.

Floodplains

A land area adjoining a watercourse which is likely to be flooded once every one hundred (100) years.

Floor Area Ratio

The ratio between total site area and total floor area permitted in any district. The floor area of the building considered for the computation of floor area ratio shall be restricted to those levels above the surface of the ground and shall not include any basement or garage spaces under the surface. Garage facilities above the surface shall be included in the computations. Where the ground level changes a full story height or more along a building facade, the floor area of such story shall be prorated in proportion to the average story height above grade. Total site area shall be the entire site within the property lines of any development.

Floor Area, Total

The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy or the conduct of business. Said areas shall be measured between the inside face of exterior walls or from the centerline of walls separating two (2) uses. Said areas shall not include areas below the average level of adjoining ground, garage space or accessory building space (includes basement but not cellar).

Forest or Woodland

All areas of five (5) or more contiguous acres of woods.

Garage

A building used primarily for the storage of motor vehicles.

Garbage

Any leftover waste or scraps or material deemed useless or disposable.

Garden

Planted fruit, vegetables, flowers and trees grown for personal consumption and use. This is considered an accessory use.

Gasoline Station

Any building, land area or other premises, or portion thereof, used or intended to be used for retail dispensing or sales of motor vehicle fuels, motor vehicle lubricants, coolants, motor vehicle single-bay washes and/or incidental repair and replacement of parts.

Gazebo

A freestanding, roofed, usually open-sided structure providing a shady resting place.

GLA (Gross Leasable Area)

Is the total floor area designed for the tenants' occupancy and exclusive use (including but not limited to basements, kitchens, restrooms, storage rooms, private corridors, stairways, mezzanines and upper floors), expressed in square feet and measured from the centerline of interior walls or other interior tenant partitions and from outside wall faces. GLA does not include public or common areas (i.e., public restrooms, corridors, stairwells, elevators, lobbies or mall areas), nor does it include mechanical rooms, equipment and/or machine rooms or mechanical chases.

Governing Board

The Town Board of Spafford.

Green Space

The percentage of the lot area not covered by impervious buildings, structures or materials. Green space includes open space, lawn and landscaped areas.

Greenhouse

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

Habitation

Living or dwelling, either temporarily or permanently, in a building.

Healthcare Institution

Hospital, medical center, sanitarium rest home, nursing home, convalescent home and any other place for the diagnosis, treatment or other medical care of human ailments.

High Water Mark

Using the United States Geological Survey datum, the elevation shall be 863.27 vertical feet above sea level for Skaneateles Lake (per City of Syracuse datum) and 786.60 vertical feet above sea level for Otisco Lake.

Home Occupation

A business activity customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit and clearly incidental and secondary to the residential use of the dwelling. In particular, this may include, but is not limited to, an art studio, professional office of a physician, dentist, lawyer, engineer, architect, writer, accountant, realtor, beauty parlor or barbershop, dressmaker or tailor shop, musician, laundering, home cooking, appliance or other small time repair, training or tutoring of not more than four (4) persons at any one time. Among

the uses that shall not be interpreted as “home occupation” shall include, but not be limited to, animal hospital, commercial stables, kennels and restaurants.

Homeowners Association

An organization of residential property owners residing within a particular development who contractually agree to provide, reserve and maintain commonly owned facilities and/or open space, in accordance with New York State law.

Impervious Surface

The horizontal area of ground covered by a surface through which water cannot infiltrate, such as building roofs, asphalt or concrete surfaces and landscape pavers.

Inn

A commercial dwelling containing more than four rooming units in which lodging is provided and offered to the public for compensation.

Junk

Any worn-out, cast-off, discarded or neglected article or material which is ready for destruction or has been collected or stored for salvage or conversion to another use. “Junk” does not include any article or material which unaltered or unchanged and without further reconditioning can be used for its original purposes as readily as when new or any article stored for restoration or display as part of a bona fide hobby (such as antique vehicles, antique farm machinery, antique engines, special interest automobiles, etc.).

Junkyards

Any place of storage or deposit, whether in connection with another business or not, where unregistered, old, or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of resale of used parts there from, for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric, or otherwise, for the purpose of disposing of the same or for any other purpose: such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles which, taken together equal in bulk to two (2) or more such vehicles provided, however the term junkyard shall not be construed to mean an establishment having facilities to process iron, steel or nonferrous scrap whose principal produce is scrap iron, steel or nonferrous scrap for sale for remelting purposes.

Land Use Application

An application for subdivision approval, site plan approval, area variance, use variance, special permit and any additional review for those as needed to comply with the New York State Environmental Quality Review Act, Environmental Conservation Law, Article 8, and regulations adopted pursuant thereto, and the Town Code, as amended.

Landscaped Area

That area of a site plan not consisting of structures or pavement. Landscaped area shall consist of those areas on a site plan that are planted, seeded or provide similar vegetative or landscaped cover, including ponds.

Letter of Credit

A security which may be accepted as a guaranty of a requirement that certain improvements be made before the Code Enforcement Officer issues a Certificate of Occupancy, including escrow agreements and other similar collateral and surety agreements acceptable in form and amount to the Municipal Attorney and Municipal Engineer and approved by the governing board.

Livestock

Any domesticated animal, including, but not limited to, cattle, poultry, alpacas, llamas, horses, emus, ostrich, rheas, kiwis, donkeys, mules, burros, sheep, hogs, goats, or farmed deer or buffalo.

Lot

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

- (1) Corner Lot: A parcel of land at the junction of and fronting on two (2) or more intersecting streets.
- (2) Through Lot: An interior lot having frontage on two (2) parallel or approximately parallel streets.
- (3) Depth of Lot: The mean distance from the street line of the lot to its opposite rear line/high water mark measured in the general direction of the sidelines of the lot.
- (4) Lot Width: The width of the lot between side lot lines at the front building line as prescribed by the front yard regulations.
- (5) Flag Lot: A type of lot (commonly flag-shaped in configuration) in which street frontage is provided by a strip of land which is narrow in relation to the remainder of the lot and which extends from the main body of the lot to the street. A lot which does not physically front on or abut a street, but which has access to a street by means of an easement over other property, shall be deemed to be included in this definition. The portion of the lot that provides access to the interior portion of the lot shall not be less than twenty (20) feet in width shall not be considered buildable and shall not be used in the calculation of the minimum

lot area requirements for the zoning district. The interior portion of the lot shall meet the minimum lot area requirements for the zoning district.

Lot Line

Any boundary line of a lot.

Manufactured Home

A structure, built after June 15, 1976, in the controlled environment of a manufacturing plant and transported in one or more sections on a permanent chassis, designed to be used as a dwelling 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 structure, when transported in whole, shall be twenty-four (24) body feet or more in width and forty (40) body feet or more in length, or 960 square feet or more when erected on site.

Mine

Any excavation from which a mineral is to be produced for sale or exchange, or for commercial, industrial or municipal use; all haulageways and all equipment above, on or below the surface of the ground used in connection with such excavation, and all lands included in the life of the mine review by the New York State Department of Environmental Conservation.

Mineral

Any naturally formed, usually inorganic, solid material located on or below the surface of the earth. For the purposes of this title, peat and topsoil shall be considered minerals.

Minimum Front Setback

The least required horizontal distance between the front lot line and the principle building measured at the shortest point.

Minimum Lake Setback

The least required horizontal distance between the high water mark and the principle building measured at the shortest point.

Minimum Rear Setback

The least required horizontal distance between the rear lot line and the principal building measured at the closest point.

Minimum Side Setback

The least required horizontal distance between the side lot line and the principal building measured at the closest point.

Mining

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

Mining Plan

A description of the applicant's mining operation which shall include maps, plans, written materials and other documents as required by the New York State Department of Environmental Conservation.

Mixed Use Building

A development or redevelopment that allows for a mixture of residential and commercial uses in a single structure or lot.

Modular Home

A factory-built home, other than a manufactured home, which meets all of the following requirements:

- (1) Is designed only for erection or installation on a site-built permanent foundation;
- (2) Is not designed to be moved once so erected or installed;
- (3) Is designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a state or local modular building code recognized as generally equivalent to building codes for site-built housing; or
- (4) To the manufacturer's knowledge, is not intended to be used other than on a site-built permanent foundation.

Motel

A building or group of buildings in which lodging is provided for compensation for primarily automobile transients. The term "motel" shall also include tourist courts, motor lodges and similar uses.

Motor Vehicle

All vehicles propelled or drawn by power other than muscular power originally intended for use on public highways.

Neighborhood

A residential development or mixed-use development where the primary use is residential housing.

Nonconforming Lot, Structure, or Use

- (1) Nonconforming Structure or Lot: A structure or lot that does not conform to a dimensional regulation prescribed by this Law for the district in which it is located or to regulations for signs, off-street parking, off-street loading or accessory buildings, but which structure or lot was in existence at the effective date of this Law and was lawful at the time it was established.
- (2) Nonconforming Use: A use of a building or lot that does not conform to a use regulation prescribed by this Law for the district in which it is located, but which was in existence at the effective date of this Law and was lawful at the time it was established.

Outdoor Wood Boiler

A fuel burning device that (a) is designed to burn clean wood; (b) is specified by the manufacturer for outdoor installation or installation in a structure not normally occupied by humans; and (c) is used to heat building space and/or water via the distribution, typically through pipes, of a gas or liquid (e.g., water or water/antifreeze mixture) heated in the device.

- (1) Commercial-Size New Outdoor Wood Boiler: A new outdoor wood boiler with a thermal output rating greater than 250,000 British thermal units per hour (Btu/h).
- (2) Existing Outdoor Wood Boiler: An outdoor wood boiler that commenced operation prior to the effective date of this Section.
- (3) Residential-Size New Outdoor Wood Boiler: A new outdoor wood boiler that has a thermal output rating of 250,000 Btu/h or less.

Park or Recreational Area

A space designed and used for active or passive participatory athletic and general recreation activities.

Parking

For the purposes of this ordinance, the act of depositing a registered motor vehicle at a location after it has been driven to that location under its own power, pending the return of the same or

another driver and any accompanying passengers. This term shall include any trailers remaining attached to the vehicle or to motor vehicles, registered or unregistered, including trailers, which are drawn or towed to a location, detached, and left at that location.

Parking Area

Off-street parking areas and loading and unloading areas required by Article XI.

Parkway

A narrow strip of open space surrounded by streets on all sides and generally intended for use in a smaller neighborhood.

Patio

An outdoor space for dining or recreation that adjoins a residence.

Personal Service Establishments

Places primarily providing services oriented to personal needs, such as barber and beauty shops, shoe repair shops, household appliance repair shops, dry cleaning and laundry pickups, shoe shine parlors, and other similar establishments. Retail sales shall be allowed as incidental use in personal service establishments.

Pier

A fixed platform, including associated pilings and similar features, that extends over water from the shoreline. The following types of piers have the meaning indicated:

- (1) Commercial Pier: a pier used for commercial purposes that is not located in a residential zoning district.
- (2) Community Pier: a pier for watercraft that is established and operated for the benefit of a recorded residential riparian subdivision.
- (3) Private Pier: a pier for watercraft that extends from a privately owned residential lot.
- (4) Recreational Pier: a pier used by residents of a recorded residential riparian subdivision and their guests for crabbing, fishing, sunning, swimming, and similar activities, but not for watercraft or boating activities of any kind.

Place of Worship

A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

Planning Board

The officially established Planning Board for the Town of Spafford.

Plat

A map, drawing, or rendering of a subdivision that usually contains narrative elements.

Pond

Any natural or artificially formed body of water that is constructed by the removal or relocation of soil and used for ornamental/landscaping purposes, but does not include a swimming pool, farm pond, or stormwater detention/retention facility. The depths of ponds are shallow enough that light can penetrate to the bottom surface throughout.

Pool

An artificially created swimming facility used for recreational activities on a residential, agricultural, or commercial lot. A pool is an accessory use and may be open to the public in commercial uses only.

Portable Housing

A vehicle, travel trailer or similar portable structure built on a chassis and designed as a temporary dwelling for travel, recreation, vacation, and other short-term uses, and which may or may not have sanitary facilities.

Private Club or Lodge

A nonprofit social organization whose premises are restricted for its members and their guests.

Professional Office

An establishment that provides personal, financial, legal, medical and technical services, assistance, advice and the like to individual consumers.

Property Line

See “lot lines.”

Public and Semi-Public Uses

This definition is intended to include, but not be limited to, any one or more of the following uses, including grounds and accessory buildings necessary for their use:

- (1) Cemeteries and associated uses.
- (2) Churches, places of worship, parish houses and convents.

- (3) Public or semi-public parks, playgrounds, and recreational areas when authorized or operated by a governmental authority, school or religious institution.
- (4) Nursery schools, elementary schools, high schools, colleges, or universities.
- (5) Public libraries and museums.
- (6) Not-for-profit fire, ambulance and public safety buildings.
- (7) Administrative office buildings and related facilities operated by public agencies.
- (8) Proprietary or not-for-profit hospitals for the care of human beings, nursing homes, convalescent homes for adults, or homes for the aged as the same are defined under the Public Health Law or the social Services Law of the State of New York, provided that they are duly licensed by the State of New York.
- (9) Not-for-profit membership corporation or club established for cultural, social, or recreational purposes.
- (10) Childcare facilities approved by the New York State Department of Social Services.

Public Utilities

Any facility or related equipment, including but not limited to all lines, pipes, transformers, poles, etc., performing an essential public service and subject to special governmental regulation. Nonessential components of public utility operations, such as general storage and maintenance facilities, are excluded from this definition.

Raft

A floating device intended to be used as a platform or destination for swimmers.

Reclamation

The conditioning of the affected land to make it suitable for any productive use including but not limited to: the planting of forests, the planting of crops for harvest, the seeding of grass and legumes for grazing purposes, the protection and enhancement of wildlife and aquatic resources, the establishment of recreational, residential, commercial, industrial and historical sites or for other uses demonstrated to be consistent with the policy of the New York State Department of Environmental Conservation.

Reclamation Plan

A description of operations to be performed by the applicant to reclaim the land to be mined over the life of the mine. The reclamation plan shall include maps, plans, the schedule for reclamation, written material and other documents as required by the New York State Department of Environmental Conservation.

Restaurant

An establishment where food is prepared and available to the general public for a determined compensation, seating is provided primarily for consumption within a structure or area on the premises and where the consumption of food in motor vehicles on the premises is neither encouraged nor permitted.

Retail Shop, Large

A business more than five thousand (5,000) square feet in gross floor area that sells goods, articles or consumer services directly to the consumer.

Retail Shop, Small

A business less than five thousand (5,000) square feet in gross floor area that sells goods, articles or consumer services individually or in small quantities directly to the consumer.

Riding Academy

A facility which maintains two (2) or more horses and offers services of boarding, training, sales, and/or instruction for a fee.

Right-of-Way

Land set aside for use as a street, alley or other means of ingress, egress or travel.

Roomer, Boarder, or Lodger

A person occupying any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes, and paying compensation for lodging or board and lodging by pre-arrangement for a week or more at a time to an owner or operator. Any person occupying such room or rooms and paying such compensation without pre-arrangement or for less than a week at a time shall be classified for purposes of this Law not as a roomer, boarder, or lodger but as a guest of a commercial lodging establishment (motel, hotel, tourist home).

Screen

A method of reducing the impact of noise, glare and unsightly visual intrusions with less offensive or more harmonious elements, such as plants, berms, fences, walls or any appropriate combination thereof.

Sensitive Areas

Areas that include steep slopes and/or unique wildlife habitat.

Sewer

- (1) Public Sewer: A “public sewer” is any municipal or privately owned sewer system in which sewage is collected from buildings and piped to an approved sewage disposal plant or central septic tank disposal system. It may also be referred to as “off-lot” or “off-site” sewer.
- (2) Private Sewer: An “on-lot” septic tank disposal system generally providing for disposal of effluent for only one (1) building on a single lot.

Sexually-Oriented Books and Videos

Books, magazines, pamphlets, pictures, drawings, photographs, video tapes, digital video disks, motion-picture films or sound recordings, or printed, visual and audio material of any kind, which are characterized by their emphasis on the description or depiction of specified anatomical areas or specified sexual activities.

Sexually-Oriented Materials

All sexually-oriented toys and novelties and sexually oriented books and videos.

Sexually-Oriented Toys and Novelties

Instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs, except medical devices approved by the Food and Drug Administration.

Shade Tree

Usually a large deciduous tree (rarely, evergreen) planted for its high crown of foliage or overhead canopy.

Shed

An enclosed building measuring one hundred forty-four (144) square feet or less used for storage, and not intended for habitation.

Shopping Center

An area grouping of commercial establishments that provides a wide range of retail goods and services. Such centers typically range in size from 100,000 to 450,000 square feet.

Shoreline

That line at which land adjoins the waters of lakes, ponds, rivers and streams within the Town at high water, as determined by the High Water Mark.

Shrub

A woody plant, smaller than a tree, consisting of several stems from the ground or small branches near the ground, may be deciduous or evergreen.

Sign

Sign shall mean and include any permanent or temporary structure or part thereof, or any device attached, painted or represented directly or indirectly on a structure, window or outdoor surface that shall display or include any letter, word, insignia, flag or representation used as, or which is in the nature of, an advertisement, announcement, visual communication, direction or is designed to attract the eye or bring the subject to the attention of the public.

- (1) On-Premises Sign: A sign that directs attention to a person, business, profession, home occupation or activity conducted on the same lot. A “for sale” or “for rent” sign relating to the lot on which it is displayed shall be deemed an “on-premises” sign.
- (2) Off-Premises Sign: A sign that directs attention to a person, business, profession, product, home occupation or activity not conducted on the same lot.

Site Plan Review

See Article XIV.

Special Use Permit

A permit provided by the Zoning Board of Appeals for a use that is not permitted in a district as-of-right but is listed as requiring a special use permit. See Article VIII.

Stable

A building in which horses are sheltered and fed.

Story

That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

Street

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

Street Line

The dividing line between the street and the lot. The street line shall be the same as the legal right-of-way provided that where a future right-of-way width for a road or street has been established that width shall determine the location of the street line.

Structure

A combination of materials assembled, constructed or erected at a fixed location including a building, the use of which requires location on the ground or attachment to something having location on the ground.

Telecommunications Facility

Telecommunications towers, antenna(e) and accessory facilities used in connection with the provision of radio, television, cellular telephone, PCS, paging and similar services.

Telecommunications Tower

A structure on which transmitting and/or receiving antenna(e) are located. It includes, without limit, freestanding towers, guyed towers, monopoles and other similar structures.

Temporary Use

Any activity conducted for a specific limited period of time which may not otherwise be permitted by the provisions of this Law. Examples of such uses are buildings incidental to new construction which are removed after the completion of the construction work.

Tenant

An occupant who temporarily holds or occupies land, a building or other property owned by another.

Timber Harvesting

The cutting and removal of mature trees from a lot for the purpose of sale or use in a commercial enterprise.

Town Center Development

The establishment of a traditional, walkable node of mixed use development accessible and bounded by residential neighborhoods, with the primary function of servicing local population and creating distinctive neighborhood centers.

Use

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

- (1) Use, Accessory: A use located on the same lot with a principal use, and clearly incidental or subordinate to, and customary in connection with, the principal use.
- (2) Use, Principal: The main use on a lot.

Variance

- (1) Area Variance: The authorization by the Zoning Board of Appeals for the use of land in a manner, which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.
- (2) Use Variance: The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not otherwise allowed or is prohibited by the applicable zoning regulations.

Veterinary Services

Animal medical care services provided by a licensed Doctor of Veterinary Medicine (DVM).

Wind Energy Conversion System

A machine that converts the kinetic energy in the wind into a usable form (commonly known as a “windmill” or “wind turbine”) and which is intended for personal use to generate on-site power and reduce on-site consumption of utility power.

Wind Energy Facility

Any wind energy conversion system, including all related cables and equipment necessary for its operation.

Yard

An open space unobstructed from the ground up, on the same lot with a structure, extending along a lot line or street line and inward to the structure. The size of a required yard shall be measured as the least distance between the structure and a lot line or street line.

- (1) Yard, Front: A yard between a structure and a street line and extending the entire length of the street line. In the case of a corner lot, the yards extending along all streets are front yards. In the case of a lot other than a corner lot that fronts on more than one street, the yards extending along all streets are front yards.
- (2) Yard, Rear: A yard between a structure and a rear lot line and extending the entire length of the rear lot line.
- (3) Yard, Side: A yard between a structure and a side lot line, extending from the front yard to the rear yard. In the case of lot a having no street frontage or a lot of odd shape, any yard that is not a front yard or a rear yard shall be considered a side yard.
- (4) Yard, Lake: A yard between a structure and the lake lot line and extending the entire length of the lake lot line.

Zoning Board

The officially established Zoning Board of Appeals of the Town of Spafford.

Zoning District

The classification of lands as established in this Law.

ARTICLE II
Administration and Enforcement of the New York State
Uniform Fire Prevention and Building Code

2-1. Purpose

This Article provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the “Uniform Code”) and the State Energy Conservation Construction Code (the “Energy Code”) in the Town. Except as otherwise provided in the Uniform Code, other state law, or other section of this Code or any other local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions of this Article.

2-2. Definitions

As used in this Article, the following terms shall have the meaning indicated:

Agricultural Building

Any structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other agricultural and/or horticultural products. The structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public.

Building Permit

A permit issued pursuant to Section 2-4 of this Article. The term “Building Permit” shall also include a Building Permit which is renewed, amended or extended pursuant to any provision of this Article.

Certificate of Occupancy / Certificate of Compliance

A certificate issued pursuant to Section 2-7 of this Article.

Code Enforcement Officer

The Code Enforcement Officer appointed pursuant to Section 2-3 of this Article.

Code Enforcement Personnel

The Code Enforcement Officer and all Inspectors.

Compliance Order

An order issued by the Code Enforcement Officer pursuant to Section 2-14 of this Article.

Energy Code

The State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

Inspector

An inspector appointed pursuant to Section 2-3 of this Article.

Operating Permit

A permit issued pursuant to Section 2-9 of this Article. The term “Operating Permit” shall also include an Operating Permit which is renewed, amended or extended pursuant to any provision of this Article.

Permit Holder

The Person to whom a Building Permit has been issued.

Person

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.

Stop Work Order

An order issued pursuant to Section 2-6 of this Local Law.

Structure

A static construction of building materials set upon or affixed to the ground or set upon or affixed to another structure. Examples include but are not limited to: a barn, display stand, tower or pylon with or without transmission or monitoring equipment included or attached, gasoline pump and accompanying tanks, installed mobile home or trailer, reviewing stand, shed, shelter, sign, stadium, pavilion, storage bin, fence, berm or other permanent static construction.

Temporary Certificate

A certificate issued pursuant to Section 2-7 of this Local Law.

Uniform Code

The New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

2-3. Code Enforcement Officer and Inspectors

- A. The Code Enforcement Officer and Inspectors duly appointed pursuant to this Section shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this Article. The Code Enforcement Officer shall be appointed by the Town Board.
- B. The administration and enforcement of this Local Law shall include 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 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 and Operating Permits, and to include in Building Permits, Certificates of Occupancy / Certificates of Compliance, Temporary Certificates and Operating Permits such terms and conditions as the Code Enforcement Officer or Inspector may determine to be appropriate;
 - (3) to conduct construction inspections, inspections to be made prior to the issuance of Certificates of Occupancy / Certificates of Compliance, Temporary Certificates 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 Article;
 - (4) to issue Stop Work Orders;
 - (5) to review and investigate complaints;
 - (6) to issue orders pursuant to Section 2-14 (Violations) of this Article;
 - (7) to maintain records;
 - (8) to collect fees as set by the Town Board of the Town of Spafford;
 - (9) in consultation with the 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 Article, and
 - (10) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer or such Inspector by this Local Law.
- C. Code Enforcement Personnel who do not possess the training referenced in this Section are restricted to the powers and duties listed in Items 1, 2, 4, 6, 7, 8 and 9 above, subject to supervision and administration by the Codes Enforcement Officer. Code Enforcement

Personnel possessing such training have all powers and duties listed in Items 1 through 10 above, subject to supervision and administration by the Codes Enforcement Officer.

- D. In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this Article.
- E. 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 Article. 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 State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- F. The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Town Board.

2-4. Building Permits

A. Building Permits Required

Except as otherwise provided in subdivision (B) of this Section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the 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 Code Enforcement Office.

B. Exemptions

No Building Permit shall be required for work in any of the following categories:

- (1) Installation of swings and other playground equipment associated with a one- or two-family dwelling;
- (2) installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than twenty-four (24) inches and are installed entirely above ground;
- (3) construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;

- (4) construction of temporary motion picture, television and theater stage sets and scenery;
- (5) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (6) installation of partitions or movable cases less than 5'9" in height;
- (7) painting, wallpapering, tiling, carpeting, or other similar finish work;
- (8) installation of Underwriters Labs ("UL") listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
- (9) replacement of any equipment provided the replacement does not alter the equipment's UL listing or render it inconsistent with the equipment's original specifications;
- (10) repairs, provided that such repairs do not involve (i) the removal or cutting away of a load bearing wall, partition, or portion thereof, or of any structural beam or load bearing component; (ii) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress; (iii) the enlargement, alteration, replacement or relocation of any building system; or (iv) the removal from service of all or part of a fire protection system for any period of time; or
- (11) the construction, enlargement, alteration, improvement or removal of agricultural buildings used solely in the raising, growing or storage of agricultural products by a person engaged in a farming operation.

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 proposed work;

- (2) the tax map number and the street address of the premises where the work is to be performed;
- (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 two (2) sets of construction documents (drawings and/or specifications) which (i) define the scope of the proposed work; (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law; (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed; (iv) substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and (v) where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

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 Office in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Office, 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 Office 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 prominently 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. In order to ensure that the construction of all footings and foundations is performed in accordance with the accepted construction documents, the Permit Holder shall be required to submit to the Code Enforcement Office an as-built survey depicting the precise location of such footings and foundations, as well as the distances between such footings and foundations and any existing or proposed building or structure and all lot lines. The Permit Holder is required to submit such survey to the Code Enforcement Office within fifteen (15) days following the completion of construction of such footings and foundations, and no further construction-related work shall be permitted under the Building Permit until the Code Enforcement Office issues a written approval to the Permit Holder authorizing further work in accordance with the Building Permit. The aforementioned requirement regarding the submittal to the Code Enforcement Office of an as-built survey shall apply only to a structure for which an area variance was required and obtained by the Permit Holder.

I. Time Limits

Building Permits shall become invalid unless the authorized work is commenced within six (6) 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 once upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer. Once a building permit expires, a person wishing to obtain a building permit must submit a new application and pay the applicable fee in accordance with the provisions of this Code.

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. Fee

The fee specified in or determined in accordance with the provisions set forth in Section 2-15 (Fees) of this Article must be paid at the time of approval of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

2-5. 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) building systems, including underground and rough-in;
- (6) fire resistant construction;
- (7) fire resistant penetrations;
- (8) solid fuel burning heating appliances, chimneys, flues or gas vents;
- (9) Energy Code compliance; and
- (10) a final inspection after all work authorized by the Building Permit has been completed.

C. 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 where the work fails to comply with the Uniform Code or Energy Code. 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.

D. Fee

The fee specified in or determined in accordance with the provisions set forth in Section 2-15 (Fees) of this Article must be paid at the time of each inspection performed pursuant to this Section.

2-6. 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 sole discretion 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 registered mail / 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 registered mail / 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.

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 2-14 (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.

2-7. Certificates of Occupancy / Certificates of Compliance

A. Certificates of Occupancy / Certificates of Compliance Required

A Certificate of Occupancy / 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 / Certificate of Compliance.

B. Issuance of Certificates of Occupancy / Certificates of Compliance

The Code Enforcement Officer shall issue a Certificate of Occupancy / 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 / 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 / Certificate of Compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy / Certificate of Compliance:

- (1) a written statement of structural observations and/or a final report of special inspections; and
- (2) flood hazard certifications.

C. Contents of Certificates of Occupancy / Certificates of Compliance

A Certificate of Occupancy / 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, address and tax map number of the property;
- (4) if the Certificate of Occupancy / Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy / Certificate of Compliance is issued;
- (5) the use and occupancy classification of the structure;

- (6) the type of construction of the structure;
- (7) the assembly occupant load of the structure, if any;
- (8) if an 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 / Certificate of Compliance and the date of issuance.

D. Revocation or Suspension of Certificates

If the Code Enforcement Office determines that a Certificate of Occupancy / Certificate of Compliance or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Office within such period of time as shall be specified by the Code Enforcement Office, the Code Enforcement Officer shall revoke or suspend such certificate.

E. Fee

The fee specified in or determined in accordance with the provisions set forth in Section 15 (Fees) of this Local Law must be paid at the time of submission of an application for a Certificate of Occupancy / Certificate of Compliance.

2-8. Notification Regarding Fire or Explosion

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

2-9. Operating Permits

A. Operation Permits Required

Operating Permits shall be required for conducting the activities or using the categories of buildings listed below:

- (1) manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR Section 1225.1;
- (2) hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;

- (3) use of pyrotechnic devices in assembly occupancies;
- (4) buildings containing one or more areas of public assembly with an occupant load of one hundred (100) persons or more; and
- (5) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board.

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (1) 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 Office, at the expense of the applicant.

C. Inspections

The Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit.

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 its sole discretion, issue a single Operating Permit to apply to all such activities.

E. Duration of Operating Permits

Operating permits shall be issued for such period of time, not to exceed one (1) year in the case of any Operating Permit issued for an area of public assembly and not to exceed three (3) years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. 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 Office.

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 2-15 (Fees) of this Article 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.

2-10. 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 at the following intervals:

- (1) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every twelve (12) months.
- (2) Fire safety and property maintenance inspections of all multiple dwellings and all non-residential buildings, structures, uses and occupancies not included in paragraph (1) of this subdivision, shall be performed at least once every thirty-six (36) months.

B. 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 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 first been obtained.

C. Fee

The fee specified in or determined in accordance with the provisions set forth in Section 2-15 (Fees) of this Article 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.

2-11. 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 Article, 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 2-14 (Violations) of this Article;
- 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.

2-12. Record Keeping

- A. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by the Code Enforcement Officer and related 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 other features and activities specified in or contemplated by Sections (4) through (12), inclusive, of this Article, and
 - (9) all fees charged and collected.
- 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.

2-13. Program Review and Reporting

- A. The Code Enforcement Officer shall annually submit to the Town Board a written report and summary of all business conducted by the Code Enforcement Office, including a report and summary of all transactions and activities described in Section 2-12 (Record Keeping) of this Article 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 the Town, on a form prescribed by the Secretary of State, a report of the activities of the 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, from the records and related materials the Town is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of the Town in connection with administration and enforcement of the Uniform Code.

2-14. Violations

A. Compliance Orders

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. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a Compliance Order. The Compliance Order shall (1) be in writing; (2) be dated and signed by the Code Enforcement Officer; (3) specify the condition or activity that violates the Uniform Code, the Energy Code, or this Article; (4) specify the provision or provisions of the Uniform Code, the Energy Code, or this Article which is/are violated by the specified condition or activity; (5) specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance; (6) direct that compliance be achieved within the specified period of time; (7) state

that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by registered mail / certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Compliance 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 being performed at the affected property personally or by registered mail / certified mail; 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. Injunctive Relief

An action or proceeding may be instituted in the name of the 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 Article, or any term or condition of any Building Permit, Certificate of Occupancy / Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit, Compliance Order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this Article. 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 Article, or any Stop Work Order, Compliance Order or other order obtained under the Uniform Code, the Energy Code or this Article, 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.

D. Civil Penalties

In addition to those penalties prescribed by State law, any Person who violates any provision of the Uniform Code, the Energy Code or this Article, 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 Article, shall be liable to 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 subdivision shall be recoverable in an action instituted in the name of the 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 (E) (Stop Work Orders) of this Article, in any other

section of this Article, 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 2-6 (Stop Work Orders) of this Article, in any other section of this Article, 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 381 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 381 of the Executive Law.

2-15. Fees

A fee schedule shall be established by resolution of the Town Board. 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 Article.

2-16. Intermunicipal Agreements

The Town Board may, by resolution, authorize the Supervisor of the Town to enter into an agreement, in the name of the Town, with other governments to carry out the terms of this Article, 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.

ARTICLE III
Boards

3-1. Establishment, Membership and Procedures of Zoning Board of Appeals

A. Establishment

In order that the objectives of this Law may be more fully and equitably achieved and a means for competent interpretation of this Law provided, there is, established a Zoning Board of Appeals for the Town.

B. Membership; Terms of Office

The Zoning Board of Appeals shall consist of five (5) members appointed by the Town Board for overlapping five (5) year terms with at least one (1) term expiring each year.

C. Procedures, Meetings, Records and Decisions

- (1) Procedures. The Town Board shall appoint a chairperson for the Zoning Board of Appeals. The Zoning Board of Appeals shall appoint a secretary and shall prescribe rules in accordance with the provisions of the State Statutes and this Law for the conduct of its affairs.
- (2) Meetings. Meetings shall be held at the call of the chairperson and at such other times as the Zoning Board of Appeals shall specify in its rules of procedure.
- (3) Records and Decisions. Minutes shall be recorded of all proceedings which shall contain evidence and data relevant to every case considered together with the votes of the members and final disposition of each case. All decisions of the Zoning Board of Appeals shall be permanently filed with the official Town records.
- (4) The Zoning Board of Appeals Chairman shall be authorized to complete and sign any forms required to be referred or submitted to outside agencies in connection with any proceeding before the Zoning Board of Appeals. (Added by Local Law 2011-2 adopted 5/12/11)

D. Removal of Zoning Board Members

The Town Board shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause or for non-compliance with the minimum requirements set forth below.

- (1) Each board member shall be required to comply with the following minimum requirements. At the discretion of the remaining members or the Town Board, failure to comply with this requirement is grounds for recommending removal from the Board.

- a. Training. Each Board member is required to complete a minimum of four (4) hours of training per calendar year in accordance with New York State Town Law § 267-7a.
- b. Attendance. Each Board member shall be required to attend a minimum of seventy-five (75) percent of all scheduled meetings.

E. Notice of Hearings

Upon filing with the Zoning Board of Appeals of an application for a zoning variance, special use permit or appeal from alleged error of the Code Enforcement Officer the Board shall fix a reasonable time and place for a public hearing thereon and give notice as required by State Law. (See New York State Town Law § 267a.)

3-2. Powers and Duties of the Zoning Board of Appeals

A. Appeals From Alleged Error of Code Enforcement Officer

The Zoning Board of Appeals shall have the authority to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination, including any order requiring an alleged violator to stop, cease, and desist made by the Code Enforcement Officer in enforcement of this Law.

B. Variances

- (1) Use Variances. The Zoning Board of Appeals, on appeal from the decision or determination of the Code Enforcement Officer, shall have the power to grant Use Variances. In order to grant the Use Variance the applicant has the burden to prove that their application meets each of the below required criteria pursuant to New York State Town Law § 267-b.
 - a. No such use variance shall be granted by a board of appeals without a showing by the applicant, that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,
 - (i) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - (ii) the alleged hardship relating to the property in question must be unique, and not apply to a substantial portion of the district or neighborhood;
 - (iii) the requested use variance, if granted, will not alter the essential character of the neighborhood; and

- (iv) the alleged hardship has not been self-created.
 - b. The board of appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- (2) Area Variances. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Code Enforcement Officer, to grant area variances. In order to grant the area variance the applicant has the burden to prove that their application meets the required criteria.
 - a. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board 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.
 - b. The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- (3) Imposition of Conditions. The board of appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent

of the zoning law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

C. Special Use Permits

The Zoning Board of Appeals shall have the authority to hear and decide all applications for a special use permit.

3-3. Appeals

A. Who May Appeal

Appeals to the Zoning Board of Appeals may be taken by any person or Town Official aggrieved or affected by any provision of this Law or by any decision including any order to stop, cease, and desist issued by the Code Enforcement Office in enforcing the provisions of this Law.

B. Rules and Procedures for Filing Appeals and Applications

(1) General Rules and Procedures for Appeals and Applications

- a. Any appeal shall be made by filing the same with the Code Enforcement Office within sixty (60) days after the date of the Code Enforcement Office's disapproval of the application.
- b. All appeals and applications made to the Board shall be in writing and using standard forms prescribed by the Board.
- c. All appeals and applications shall refer to the specific provisions of this Law.
- d. All appeals and applications shall set forth names and addresses of all adjoining owners including those across public roads from the subject property.

(2) Appeals from Alleged Error. Appeals from alleged error of the Code Enforcement Office shall specify the alleged error, the Section or Sections of this Law to which it pertains, and the interpretation thereof that is claimed.

(3) Variance Appeals. Appeals for variance from the strict application of this Law shall include the permit application denied by the Code Enforcement Office together with a statement and with any supporting evidence regarding the requirements listed in 1-10B.

(4) Special Use Permit Applications. Applications for special use permits shall include a completed special use permit application with all information required therein and a statement along with any supporting evidence regarding the merits of the proposed use at the proposed location and how the proposal complies with

the general specific requirements of this Law. All applications shall comply in all respects with the provisions of Article VIII regarding special use permits.

C. Appeal to Court

Any person or persons, jointly or severally aggrieved by a decision of the Zoning Board of Appeals or any officer, department, or Board of the Town, may apply to the Supreme Court for review by a proceeding under Article seventy-eight (78) of the Civil Practice Law and Rules. Such proceeding shall be instituted within thirty (30) days after the filing of a decision in the office of the Town Clerk.

D. Appeals Fee

Appeals and applications before the Board of Appeals shall be accompanied by a payment to the Town in accordance with a Fee Schedule, provided at the Town Clerk's office, adopted by resolution of the Town Board.

3-4. Establishment, Membership and Procedures of the Planning Board

A. Establishment

In accordance with New York State Town Law § 271, a Planning Board is established in the Town of Spafford in order to provide for the orderly development of the Town in accordance with the regulations contained herein.

B. Membership; Terms of Office

The Planning Board shall consist of five (5) members appointed by the Town Board for overlapping five (5) year terms with at least one (1) term expiring each year.

C. Procedures, Meetings, and Records and Review/Decisions

- (1) Procedures. The Town Board shall appoint a chairperson for the Planning Board. The Board shall appoint a secretary and shall prescribe rules in accordance with the provisions of the State Statutes and this Law for the conduct of its affairs.
- (2) Meetings. Meetings shall be held at the call of the chairperson and at such other times as the Planning Board shall specify in its rules of procedure.
- (3) Records and Review/Decisions. Minutes shall be recorded of all proceedings which the Planning Board undertakes and shall contain the data relevant to every review and any decisions made. All recommendations and decisions of the Planning Board shall be permanently filed with the official Town records.

D. Removal of Planning Board Members

The Town Board shall have the power to remove, after public hearing, any member of the Planning Board for cause or for non-compliance with the minimum requirements set forth below.

- (1) Each board member shall be required to comply with the following minimum requirements. At the discretion of the remaining members or the Town Board, failure to comply with this requirement is grounds for recommending removal from the Board.
 - a. Training. Each Board member is required to complete a minimum of four (4) hours of training per calendar year in accordance with New York State Town Law § 267-7a.
 - b. Attendance. Each Board member shall be required to attend a minimum of seventy-five (75) percent of all scheduled meetings.

3-5. Powers and Duties of the Planning Board

The Planning Board shall have the power and duty to consider and may approve preliminary and final subdivision plats showing lots, blocks or sites, as specified in the Town's Subdivision Regulations.

3-6. Amendments

The Town Board may from time to time on its own motion, or on petition, or on recommendation of the Planning Board or the Zoning Board of Appeals amend, supplement or repeal the regulations and provisions of this Law after public notice and hearing.

Every such proposed amendment or change, whether initiated by the Town Board or by petition shall be referred to the Planning Board and Zoning Board of Appeals for report thereon before the public hearing hereinafter provided for. The Town Board by resolution adopted at a stated meeting shall fix the time and place of a public hearing on the proposed amendments and cause notice to be given as follows:

- (1) By publishing a notice of the time and place of the hearing at least ten (10) days, but not more than thirty (30) days, prior to the date of such hearing in a paper of general circulation in the Town.
- (2) A written notice of any proposed change or amendment affecting property within the protectively zoned area of a housing project authorized under the Public Housing law, as such area is shown on an approved zoning map filed with the Code Enforcement Office, shall be given to the housing authority erecting or owning the project and to the government providing financial aid for assistance thereto at least ten (10) days prior to the date of such hearing.
- (3) A written notice of any proposed change or amendment affecting property within five hundred (500) feet of the boundaries of any state park or parkway shall be given in the regional State Park Commission having jurisdiction over such State park or parkway no less than ten (10) days prior to the date of such public hearing.

- (4) A written notice of any proposed change of amendment affecting property within five hundred (500) feet of the boundaries of any city, village, town or county, shall be given to the clerk of such municipality and to the clerk of the County Legislature at least ten (10) days, but not more than thirty (30) days, prior to the date of such hearing.
- (5) In case, however, of a protest against such change signed by the owners of twenty percent (20%) or more of the area of land included in such proposed change or of that immediately adjacent extending one hundred (100) feet therefrom or of that directly opposite thereto, extending one hundred (100) feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least four (4) members of the Town Board.

3-7. County Planning Board Zoning Referral and Review

As required under New York State General Municipal Law, applicable land use and zoning applications shall be referred to the Onondaga County Planning Board for review and recommendation.

ARTICLE IV Violations

4-1. Enforcement and Remedies

In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used in violation of this Law or of any other local law, Law or other regulation made under authority conferred thereby, the proper local authorities of the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure, or land or to prevent any illegal act, conduct, business or use in or about such premises; and upon the failure or refusal of the proper local officer, board or body of the Town to institute any such appropriate action or proceeding for a period of ten (10) days after written request by a resident taxpayer of the town so to proceed, any three (3) taxpayers of the town residing in the district wherein such violation exists, who are jointly or severally aggrieved by such violation, may institute such appropriate action or proceeding in like manner as such local officer, board or body of the town is authorized to do.

4-2. Fines and Penalties

Except as otherwise set forth in this Code, any violation of this Code shall constitute an offense, punishable by a fine of up to \$250.00, or imprisonment for a period of up to six (6) months, or both. Each day for which such violation occurs shall constitute a separate offense. In addition, the Town may pursue such other remedies as provided by law to abate any violation. (Amended by Local Law 2011-2 adopted 5/12/11)

ARTICLE V
Districts

5-1. Districts Established

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

- (R-A) Residential - Agricultural District
- (OL) Otisco Lake District
- (SL) Skaneateles Lake District

5-2. Official Zoning District Map

Said districts are bounded as shown on a map entitled “Town of Spafford Zoning Map” certified by the Town Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this Law. (See Appendix.)

5-3. Interpretation of District Boundaries

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

- A. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such center lines, street lines or highway lines shall be construed to be such boundaries.
- B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- C. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of street, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance there from as shall be determined by the use of the scale shown on the zoning map.
- D. In case of further uncertainty as to the true location of a zoning district boundary line in a particular instance, the Zoning Board of Appeals shall determine the location of such boundary.

5-4. Regulations

A. Applicability of Regulations

Except as provided by law or in this Law, in each district no building, structure or land shall be used or occupied except for the purposes permitted in Article VI.

B. Uses Are Subject to Other Regulations

Uses permitted by right or by special use permit shall be subject in addition to use regulations, to such regulations of yard, lot size, lot width, building area, provisions for off-street parking and loading, and to such other provisions as are specified in other Articles contained herein.

C. Prohibited Uses and Uses Subject to Planned Development District (PDD) Procedures and Requirements

Any uses not expressly stated and permitted in Article VI are prohibited in the Town of Spafford, except as provided in Section 6-4, Planned Development District.

ARTICLE VI
Zoning District Regulations

6-1. Residential - Agricultural District (R-A)

A. Intent

One of the primary land uses in the Town of Spafford, Onondaga County, is agriculture. In an effort to retain viable tracts of farmland, preserve agricultural land uses and retain the rural landscape and quality of life related to farming, the Residential – Agricultural District has been established to:

- (1) Provide for agricultural uses and uses compatible with or supportive of agriculture within the district;
- (2) Avoid conflicts between agricultural and non-agricultural uses by limiting the type and amount of non-agricultural uses within the district; and
- (3) Retain tracts of land of sufficient size to encourage viable farming operations.

B. Permitted Uses

Permitted uses shall be as follows, subject to the requirements specified in this section and elsewhere in these regulations.

- (1) Farming Operation
- (2) One-family Dwelling
- (3) Two-family Dwelling
- (4) Accessory Structures and Buildings
- (5) Gazebo/Cabana
- (6) Shed
- (7) Keeping/Raising of Livestock (per Animal Unit Table)

C. Special Use Permit

Specially permitted uses are set forth below, subject to the requirements specified in this section and elsewhere in these regulations. An applicant for a special use permit may also be subject to the site plan review requirements contained in Article XIV of the Code. Uses requiring site plan review are listed in the Town of Spafford Residential – Agricultural District Bulk and Use Table in the Appendix and denoted with an asterisk below.

- (1) Home Occupation
- (2) Restaurant*
- (3) Bed and Breakfast*
- (4) Agricultural Based Business*
- (5) Riding Academy

- (6) Farm Stands
- (7) Timber Harvesting
- (8) Automobile and General Repair*
- (9) Cemetery*
- (10) Club or Lodge*
- (11) Pond
- (12) Commercial Dog Kennel
- (13) Convenience Store*
- (14) Library*
- (15) School*
- (16) Child Care Facility/preschool*
- (17) Small Retail Store*
- (18) Commercial Garage*
- (19) Gasoline Station*
- (20) Health Care Institution*
- (21) Professional Office*
- (22) Wind Energy Conversion System
- (23) Places of Worship*
- (24) Telecommunications Facility or Tower*
- (25) Adult-Oriented Business*
- (26) Emergency Dwelling
- (27) Mining*
- (28) Single Wide Manufactured Home

D. Lot Size

See the Town of Spafford Residential – Agricultural District Bulk and Use Table in the Appendix.

E. Lot Coverage

See the Town of Spafford Residential – Agricultural District Bulk and Use Table in the Appendix.

F. Minimum Setback

See the Town of Spafford Residential – Agricultural District Bulk and Use Table in the Appendix.

G. Height

See the Town of Spafford Residential – Agricultural District Bulk and Use Table in the Appendix.

H. Keeping and Raising of Livestock

The keeping and raising of livestock, except as part of an agricultural operation located in a County adopted Agricultural District, shall be subject to the following standards:

- (1) Structures for the keeping or raising of livestock, small animals or poultry shall be located no closer than forty (40) feet to any side, rear or front property line.
- (2) Such use shall not be detrimental or injurious to the character of the neighborhood or any principle use located therein.
- (3) Said area shall be completely fenced and enclosed housing must be provided for the animals.
- (4) The number of animals that can be kept on any lot in the RA District shall be limited to 0.2 animal units per acre for one (1) to five (5) acres. One additional animal unit may be added for each acre in excess of five acres. To determine the animal unit measure for any animal not specified in the Town of Spafford Keeping and Raising of Livestock Animal Unit Table in the Appendix, divide the average adult weight in pounds by one thousand (1,000).

See the Town of Spafford Keeping and Raising of Livestock Animal Unit Table in the Appendix.

6-2. Otisco Lake District (OL)

A. Intent

The intent of the Otisco Lake District is to protect and maintain a quality waterfront within the Town. The waterfront in the Otisco Lake District is a valuable resource for the community, and particular attention should be paid to building architecture, building and lot size, maintenance, and location so that the development patterns and uses enhance the quality of this resource.

B. Permitted Uses

Permitted uses shall be as follows, subject to the requirements specified in this section and elsewhere in these regulations.

- (1) One-family Dwelling
- (2) Two-family Dwelling
- (3) Boathouse
- (4) Accessory Structures and Buildings
- (5) Shed
- (6) Park
- (7) Deck or Patio Contiguous to House
- (8) Seawall/Shoreline Deck
- (9) Gazebo/Cabana
- (10) Garage (for lots separated from lakefront lots; see subsection (I) below)

- (11) Pool

C. Special Use Permit

Specially permitted uses are set forth below, subject to the requirements specified in this section and elsewhere in these regulations. An applicant for a special use permit may also be subject to the site plan review requirements contained in Article XIV of the Code. Uses requiring site plan review are listed in the Town of Spafford Otisco Lake District Bulk and Use Table in the Appendix and denoted with an asterisk below.

- (1) Bed and Breakfast*
- (2) Club*
- (3) Restaurant*
- (4) Home occupation

D. Lot Size

See the Town of Spafford Otisco Lake District Bulk and Use Table in the Appendix.

E. Lot Coverage

See the Town of Spafford Otisco Lake District Bulk and Use Table in the Appendix.

F. Minimum Setback

See the Town of Spafford Otisco Lake District Bulk and Use Table in the Appendix.

G. Height

See the Town of Spafford Otisco Lake District Bulk and Use Table in the Appendix.

H. Additional Regulations

The lake lot line shall be considered the rear lot line for all properties in the Otisco Lake District.

I. Garage (for lots separated from lakefront lots)

A garage shall be permitted on a lot located immediately across a road or street from a lakefront lot, provided as follows:

- (1) the lakefront lot and the lot on which the garage is proposed to be constructed are owned by the same person or entity;
- (2) the lakefront lot contains a principal building or structure; and
- (3) the lot on which the garage is proposed to be located complies with all setback and related bulk use regulations as set forth in the Appendix.

6-3. Skaneateles Lake District (SL)

A. Intent

The intent of the Skaneateles Lake District is to protect and maintain a quality waterfront within the Town. The waterfront in the Skaneateles Lake District is a valuable resource for the community, and particular attention should be paid to building architecture, building and lot size, maintenance, and location so that the development patterns and uses enhance the quality of this resource.

B. Permitted Uses

Permitted uses shall be as follows, subject to the requirements specified in this section and elsewhere in these regulations.

- (1) One-family Dwelling
- (2) Two-family Dwelling
- (3) Boathouse
- (4) Accessory Structures and Buildings
- (5) Shed
- (6) Park
- (7) Deck or Patio Contiguous to House
- (8) Seawall/Shoreline Deck
- (9) Gazebo/Cabana
- (10) Garage (for lots separated from lakefront lots; see subsection (I) below)
- (11) Pool

C. Special Use Permit

Specially permitted uses are set forth below, subject to the requirements specified in this section and elsewhere in these regulations. An applicant for a special use permit may also be subject to the site plan review requirements contained in Article XIV of the Code. Uses requiring site plan review are listed in the Town of Spafford Skaneateles Lake District Bulk and Use Table in the Appendix and denoted with an asterisk below.

- (1) Bed and Breakfast*
- (2) Club*
- (3) Restaurant*
- (4) Home occupation

D. Lot Size

See the Town of Spafford Skaneateles Lake District Bulk and Use Table in the Appendix.

E. Lot Coverage

See the Town of Spafford Skaneateles Lake District Bulk and Use Table in the Appendix.

F. Minimum Setback

See the Town of Spafford Skaneateles Lake District Bulk and Use Table in the Appendix.

G. Height

See the Town of Spafford Skaneateles Lake District Bulk and Use Table in the Appendix.

H. Additional Regulations

- (1) The lake lot line shall be considered the rear lot line for all properties in the Skaneateles Lake District.
- (2) Lots that are within the Skaneateles Lake Watershed shall comply with the development regulations specified in Article VII.

I. Garage (for lots separated from lakefront lots)

A garage shall be permitted on a lot located immediately across a road or street from a lakefront lot, provided as follows:

- (1) the lakefront lot and the lot on which the garage is proposed to be constructed are owned by the same person or entity;
- (2) the lakefront lot contains a principal building or structure; and
- (3) the lot on which the garage is proposed to be located complies with all setback and related bulk use regulations as set forth in the Appendix.

6-4. Planned Development District (PDD)

A. Purpose

In a Planned Development District (PDD), parcels and buildings may be used to accommodate a wide range of development and/or redevelopment regardless of the underlying zoning district(s), as authorized by the Town Board in the creation of a PDD. The purpose of the PDD is to provide flexible land use and design regulations through the use of performance criteria and land impact considerations, so that developments incorporating individual building sites, common property, singular land use, and/or mixed land uses may be planned and developed as a unit. Where deemed appropriate, the Town Board may consider a proposed planned development through an approval process requiring a zoning district change from the original district to PDD, in which the approved plat and a complete set of use and dimensional regulations become the basis for continuing land use controls.

B. Objectives

In order to carry out the purpose of this Article, a PDD shall achieve at least the following objectives:

- (1) Work as a concentrated whole unit, being self-contained and not conducive to expansion outside its boundaries at a future date, unless such expansion when added to the original PDD can act with it to create a larger self-contained unit.
- (2) Provide open space as an integral part of the plan.
- (3) Provide for the convenient location of commercial and service areas.
- (4) Preserve trees, outstanding natural topography and geologic features and prevent soil erosion and ground and surface water pollution.
- (5) Make creative use of land and related physical development that allows an orderly transition of land from rural to more urban uses.
- (6) Make efficient use of land resulting in smaller networks of utilities and streets and thereby lowering costs for construction, maintenance and housing.
- (7) Provide a more desirable environment for dwelling, working and/or recreation than would be possible through the strict application of the preset regulations for the underlying district as determined in this Law.

C. General Requirements

- (1) Minimum Area. Under normal circumstances, the minimum area requirement for a PDD shall be ten (10) contiguous acres of land, unseparated by existing streets, highways or other properties. Minimum area requirements for shopping centers and golf courses are found in Section 6-4(E). Where the applicant can demonstrate that the characteristics of his land holdings will meet the objectives of this Article, projects with less acreage may be considered or as otherwise specified.
- (2) Ownership. The tract of land for the project shall be owned or under lease option to purchase by the applicant who may be a single person, corporation, or a group of individuals or corporations. An application shall be filed by the owner or jointly by the owners of all property included in a project. In the case of multiple ownerships, the approved plan shall be binding on all owners.
- (3) Location. The PDD shall be applicable to any area of the Town of Spafford where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this Article and the spirit of this Law. A proposed location for a PDD must have demonstrated compatibility with the surrounding land uses, neighborhood character, and traffic pattern, capacity and volume.

- (4) Permitted Uses. The use of land and buildings in a PDD may be for any lawful purpose as authorized by the Town Board in accordance with the procedures of this Article; the following general uses, or combinations thereof, may be considered.
- a. Residential Uses. Residences may be in a variety of types, in developing a balanced community. The use of a variety of housing types and densities shall be deemed most in keeping with the objectives of this Article; the applicant shall demonstrate that the broadest economic market as possible is being reached.
 - b. Commercial, Service & Other Non-residential Uses in Primarily Residential PDD. These uses may be permitted (or required) where such uses are scaled primarily to serve the residents of the residential PDD. Consideration shall be given to the project, as it exists in its larger setting in determining the appropriateness of such uses. In no case shall more than twenty-five percent (25%) of the gross site area be permitted for commercial uses, services or non-residential uses other than open space and nonprofit recreation.
 - c. Commercial Uses. If designed and organized toward the purpose and objectives of this Article, a PDD with commercial uses as the major land use may be approved. All proposed shopping centers and golf courses in the Town shall be subject to approval through the PDD procedures. (See Section 6-4.E.)
 - d. Industrial Uses. If designed and organized toward the purposes and objectives of this Article, a PDD with industrial uses as the major land use may be approved. All proposed industrial developments for the Town of Spafford shall be subject to approval through the PDD procedures. Industrial uses shall not be permitted in combinations with any residential uses.
- (5) Intensity of Land Use. Relatively high land use intensity or dwelling unit density may be permitted if it is demonstrated that a good overall dwelling, working and/or recreation environment is thereby produced. In determining the suitability of land use intensity or dwelling unit density proposed for a PDD, each case shall be considered separately. Proposed land use intensity ratings and/or dwelling unit densities shall be completely documented by all facts, opinions and judgments used to justify the selection of the intensity rate or unit density.
- (6) Common Property. Common property in a PDD is a parcel or parcels of land together with the improvements thereon, the use and enjoyment of which is shared by the owners and occupants of the individual building sites. When common property exists (and such may be required), the ownership of such common property may be either public or private; when common property exists in private ownership, satisfactory arrangements shall be made for the

improvement, operation and maintenance of such common property and facilities thereon, including but not limited to private streets, drives, service and parking areas, open space and recreation areas.

D. Approval of PDD

For full approval of a proposed PDD the applicant shall:

- (1) Secure a zoning district change from the Town Board for the subject property from its present district to Planned Development District, which process shall be that of amending the Zoning Law and Map to include the proposed PDD plan and all the related specifications including the use and dimensional regulations specific thereto.
- (2) After the zoning district change, it shall be required that the subdivision and platting of all lands in the proposed PDD be subject to Section 6-4(E) of this Code.
- (3) Before construction and occupancy of buildings or land, proper permits shall be secured by the applicant in accordance with Section 2-2(C) of this Code.

E. Application Requirements for PDD

When any PDD is proposed, before any permit for erection of a permanent building in such PDD shall be granted, and before any subdivision plat or any part thereof may be filed in the Onondaga County Clerk's Office, the applicant or his authorized agent shall apply for and secure approval of such PDD in accordance with the following specific procedures.

- (1) Pre-application Discussion Stage. Prior to formal application, the applicant may present the proposed PDD to the Town Board in rough sketch and written descriptive form to get the initial opinions concerning the suitability of the concepts and general elements of the development, and to make sure the required procedures for the PDD application are fully understood by the applicant. In this stage it is advised that most of the items in this section be addressed at least in rough form by the applicant.
- (2) Application for PDD Zoning. A complete application for the establishment of a PDD shall be made to the Town Board in plan (drawn to scale) and written application on forms provided by the Code Enforcement Officer. Prior to Town Board action, the Town Board shall immediately after receiving the complete application refer it, for the purpose of review and recommendations, to the Town Planning Board which shall have thirty (30) days from its next regularly scheduled meeting within which to review and comment on the PDD application. As applicable in accordance with Sections 239-1 and -m of Article 12-B of the New York State General Municipal Law, the Town Board shall refer the PDD application for formal review and recommendations to the Onondaga County Planning Board which shall have thirty (30) days or an agreed-upon longer period from its next regularly scheduled meeting within which to submit its report. If

either planning board does not report to the Town Board within the specified time period, their inaction shall be construed as having no recommendations.

- (3) Acceptability of a PDD proposal shall be based upon the Town Board's judgment concerning the overall quality of the PDD proposal, and the extent of its impact upon the Town and its citizens, and their or other's properties. In order for the Town Board adequately to evaluate the PDD proposal, the application (in its plan and written form) shall address the following areas, and the information shall be furnished therein in a complete manner.
- a. Project Particulars: Shall include the name and location of the project, name(s) and address(es) of the owner(s), a legal description of the property, and the names of owners of abutting properties.
 - b. Type of Development: The type of development shall be fully described, including at least the following information:
 - (i) Residential: Total acreage of residential area and each residential portion of the development; total number of dwelling units and number in each residential portion; percentage and numbers of dwelling units by type (single family, garden apartment, town houses, etc.); dwelling unit density per gross site acreage; estimated population of the development and estimated number of school-age children.
 - (ii) Commercial: Total acreage of commercial area; gross leasable floor area in square feet; land use intensity rating; general description of commercial types and their general requirements for receiving and delivering goods.
 - (iii) Industrial: The total acreage of industrial area; land use intensity rating; types of industry and industrial process involved; source, type, general quantities and method of shipment for raw materials; general quantities and method of shipment for products; types of wastes and residuals.
 - c. Staging of Development: Description on plan and in written form(s) of the planned staging of the project (and such staging may be required)/
 - d. Natural Site: A description of each natural site shall be included with at least the following information: soil characteristics and limitations; extent of and treatment intended for the site's vegetative cover (especially trees); topographical features (on topographic map); existing and proposed site drainage; foreseeable needs of the site for construction precautions; existing conditions of and the projected effects upon the ground and surface waters of the site and community; possible air pollution hazards.

- e. Site Planning and Design Considerations: Descriptions and illustrations of the following: site ingress and egress; parking; on-site pedestrian and vehicular circulation; general landscaping treatment; general location and arrangement of buildings and other structures; locations of all facilities; and general visual description.
- f. Transportation and Traffic: Descriptions of at least the following; existing streets serving the area; the level of service provided by existing streets in terms of traffic count and street traffic capacities; expected modifications for existing street systems required by project; estimated daily automobile trips generated by the residential and other uses; availability of public transportation to site; design considerations for preventing on-site and area traffic congestion.
- g. General Market Information: Describe the need for the proposed Land uses in their proposed locations and their proposed quantities; and the intended market structures for the residential units (prices and rents, describe whether low-income, middle-income, luxury, etc.).
- h. Projected Fiscal Impacts on Town: Calculations of projected Town revenues and costs to be expected by the Town as a result of the proposed development.
- i. Utilities and Related Services: Describe the following and detail their intended locations on the plan(s); the method and projected quantities of waste water (sewage) from the development; demand and source of supply for water; level of service needed and available for fire protection; demands for and availability of gas and electricity; projected quantities of and method of disposal for solid wastes. In addition, a description of the potential impact to the local school district(s) shall be furnished.
- j. General Effects of Development on Neighborhood and Community Appearance and Land Use: Description of effects on the appearance and relationship of project to predominant character and land use in area (compatibility).
- k. Relationship of Proposed PDD to Official Town and County Development Policies: Information on how the proposed PDD relates to local and area wide goals and policies as stated in plans and regulations.
- l. Development, Operation and Maintenance of Open Space and Common Properties: A general statement concerning the responsibility for these and proposed methods for their implementation.
- m. Developer Competence: Evidence in the applicant's behalf to demonstrate his competence to carry out plan and his awareness of the scope of the project, physical and financial.

- n. Other: Any other such information as the Town Board deems to be reasonably pertinent to the adequate consideration and evaluation of the proposed project.
- (4) Public Hearing. Upon receipt of the Planning Board's recommendations or once the specified review period expires, whichever occurs first, the Town Board shall, within forty-five (45) days, schedule and conduct a public hearing for the purpose of considering the change in zoning district to PDD for the applicants plan in accordance with the procedures required under Section 265 of the New York State Town Law.
 - (5) Town Board Action. Within forty-five (45) days after a public hearing the Town Board shall render its decision on the PDD application. The approval of a PDD application shall require the approval of a supermajority of the members of the entire Town Board. If the Town Board grants the PDD zoning, the Zoning Map shall be so noted, and the Law shall be amended so as to define the legal boundaries of the PDD, but such action shall only grant permission for development of the specific proposed land uses in accordance with the use and dimensional specifications, plans and related materials filed with the Town Board and related to the specific PDD; such specifications, plans and related materials to include, if deemed necessary by the Town Board to protect the public health, safety and welfare of the Town, any conditions and requirements for the applicant to meet. The approved plan and the related attachments shall be deemed an amendment to this Law and shall serve as continuing land use controls for the specific Planned Development District; the first such zoned PDD shall be designated "PDD-1," with subsequent unrelated Planned Development Districts to be numbered in continuing sequence.
 - (6) Annual Review of PDD. The Code Enforcement Officer shall review the PDD annually in order to determine the amount and quality of the progress made by the developer toward fulfilling the specifications and plans and any attached conditions, and make a report to the Town Board. Based upon the progress made by the developer, the Town Board may reconsider the PDD and further amend the Law in relation to it, if progress is not to the satisfaction of the Town Board or not in keeping with the staging approved by the Town Board. If no progress is made on the site of the PDD within the first year after approval, the Town Board may consider changing the zoning of the property to the original or other district. Little or no progress on the PDD site by the developer does not guarantee the Town Board will take action to change zoning, especially if the developer demonstrates to the satisfaction of the Town Board that he is acting in continuing good faith and, where applicable, the preliminary plat plans are in preparation.

F. Design Standards and Specific Requirements

The following uses shall be permitted in the Town of Spafford only in accordance with the procedures of this Article; and in addition to the other provisions of this Article, the following requirements shall apply to the specific planned developments.

- (1) Shopping Center is subject to the following provisions:
 - a. The minimum lot size for such use shall be ten (10) acres.
 - b. Off-street parking shall be provided in accordance with Article XI.
 - c. A shopping center shall have its frontage on a state or county road, and ingress and egress for the site shall be designed so as not to constrict the flow of traffic on the public road.
 - d. Parking, loading, and service areas shall be located entirely within the confines of the lot, shall be physically separated from public streets by buffer strips against un-channeled motor vehicular ingress.
 - e. All access ways to a public street, according to access management standards, shall be located not less than two hundred (200) feet for a 30 mph area and four hundred ninety-five (495) feet for a 55 mph area, from the intersection of any street line.
 - f. All buildings shall be arranged in a group or in groups, and the distance at the closest point between any two (2) buildings or groups of attached buildings, shall be not less than fifteen (15) feet.
 - g. Along any adjoining lot line, a buffer strip shall be provided which shall not be less than twenty-five (25) feet in thickness and shall be planted with at least grass, shrubs and trees (to attain an average height of at least twelve (12) feet) along the entire length of the lot line to serve as a barrier to visibility, air-borne particles, glare and noise. Such screen planting shall be located within at least the exterior ten (10) feet of the buffer strip.
 - h. All parking, loading, access and service areas shall be adequately illuminated at night. Such lighting, including sign lighting, shall be arranged so as to protect the highway and adjoining property from direct glare of hazardous interference of any kind.
 - i. All utility lines servicing a shopping center shall be placed underground.
- (2) Golf course and/or country club are subject to the following provisions:
 - a. Minimum lot size shall be fifty (50) acres.
 - b. All buildings shall be not less than one hundred (100) feet from any lot line.

ARTICLE VII
Regulations Applicable to All Zoning Districts

7-1. Lot Area or Yards Required

The lot or yard areas required for any new building or use shall not include any part of a lot that is required by any other building or use to comply with the requirements of this Law. No lot shall be so altered that the area of the lot or the dimensions of yards or other open spaces are smaller than herein prescribed.

7-2. Spacing of Permitted Buildings on a Lot

Where a permitted building is to be located on the same lot with another permitted building, each such building shall be located in such a way that all required front, side and rear yards, and required lot area can be adequately met.

7-3. Exceptions of Minimum Lot Sizes and Lot Widths

- A. The provisions of the Bulk and Use Tables shall not prevent the construction of a one-family dwelling, provided the yard requirements are observed on any lot which was lawful when created, provided the yard requirements then specified are observed, and which prior to the effective date of this Law was in separate ownership duly recorded by plan or deed.
- B. Exemption of lots shown on approved subdivision plats shall be made in accordance with the provision of Section 265-a of the New York State Town Law.

7-4. Traffic Visibility Across Corners (Clear Sight Triangle)

- A. On any corner lot, no wall, fence or other structure shall be erected or altered or no hedge, tree, shrub or other growth except agricultural crops shall be maintained which may cause danger to traffic on public street by obscuring the view. Visual obstructions shall be limited to a height of not more than two (2) feet above street level within the triangular area bounded by the street lines and a straight line drawn between points on each such street line twenty-five (25) feet from the intersection of said street lines.
- B. Where a private access way intersects a public street, visual obstructions shall be limited to a height of not more than two (2) feet above street level within the triangular area bounded by the street line, the edge of the private access way, and a straight line drawn between points on both the street line and the edge of the access way ten (10) feet from the intersection of said lines.

7-5. Essential Services

The erection, construction, alteration or maintenance by public utilities or town or other governmental agencies of underground or overhead gas, electrical or water transmission or distribution systems, communication systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other

similar equipment and accessories in connection therewith shall be allowed as reasonably necessary for the furnishing of adequate service by such public utilities or town or other governmental agencies or for the public health or safety or general welfare, but not including buildings.

7-6. Fences, Terraces, etc. and Projections in Required Yards

Subject to Section 7-3 the provisions of the Bulk and Use Tables shall not apply to fences, terraces, steps or other similar features not over three (3) feet high above the floor level of the ground story. Arbors, open trellis, flagpoles, recreation and drying yard equipment are exempt from the Bulk and Use Regulations.

7-7. Front and Side Yards of Corner Lots

On a corner lot the street side yard shall equal the required front yard for lots facing that street.

7-8. Lots in More Than One District

In cases where a lot is located in more than one district, all permitted uses and structures shall be contained within the portion of the lot within the district in which each use and/or structure is permitted.

7-9. Creation of a New Lot

When a new lot is formed so as to include within its boundaries any part of a former lot on which there is an existing building or use, the subdivision must be carried out in such a manner as will not infringe upon any of the provisions of this Law, either with respect to any existing structures or use or any proposed structures or use.

7-10. Building Height Regulations

Maximum height regulations shall not apply to farm buildings, church spires, chimneys, antennae, or other structures built above the roof and not devoted to human occupancy.

7-11. Accessory Buildings and Uses

A. Buildings

- (1) Accessory buildings attached to the principal building, except for fences (see Section 7-6), shall comply in all respects with the requirements of this law applicable to the principal building.
- (2) Accessory buildings that are not attached to a principal building may be erected in accordance with the following restrictions:
 - a. Accessory buildings and uses are not permitted in front yards with the exception of signs, off-street parking facilities and farm stands.

- b. No unattached accessory building shall be located nearer to the principal building than ten (10) feet.
 - c. The height of an unattached accessory building shall not exceed thirty-five (35) feet from the peak of the structure to the highest point on the ground on the side nearest the street.
 - d. An unattached accessory building shall not be a building, structure, or other assemblage of materials designed for, or customarily used as, a principal structure allowed under this law; nor shall an unattached accessory structure be a vehicle or a container primarily intended for storage or transportation of goods, animals or people.
- (3) Fences are not accessory buildings.
 - (4) An accessory building shall not be used for habitation.
- B. Sewer and/or water lines shall not be extended to an accessory building without the permission of the Onondaga County Health Department.
- C. Uses

Accessory uses are those customarily incidental and subordinate to the use of the principal building, and no permit shall be required unless specifically required elsewhere in this law.

7-12. Dumping of Waste Material

Dumping, piling or accumulation of refuse, garbage (other than in closed containers which are regularly emptied in a lawful manner), waste material, scrap or other noxious substances is prohibited.

7-13. Junkyards Prohibited

Junkyards are prohibited everywhere in the Town.

7-14. Unregistered Non-Farm Vehicles and Construction Machinery

Unregistered non-farm vehicles, including, but not limited to, cars, trucks, trailers, boats and recreational vehicles, are allowed under the provisions below. Functional construction machinery, including, but not limited to, excavators, backhoes, bull dozers and similar machinery are covered by § 7-22 (Outdoor Storage of Materials and Equipment) and are not subject to the requirements of this section.

- A. Up to one (1) functional, unregistered non-farm vehicle may be stored outdoors.
- B. A functional, unregistered non-farm vehicle that is stored outdoors in plain sight as viewed from any property line shall be located no less than fifty (50) feet from any property line.

7-15. Lake Access

The following restrictions are intended to provide for controlled development and use of the Otisco Lake and Skaneateles Lake shore areas in a manner which protects the character and quality of the Town's surface water and shoreline resources; and, to prevent the overcrowding and overuse of the lakeshore areas and water resources which may result in nuisance conditions, degradation of property values, user conflicts and undesirable impacts on the public health, safety and general welfare. Lakefront access standards shall meet the following conditions:

- A. Required Lake Frontage. Each permitted or specially permitted use and/or structure is required to have lake frontage equaling the minimum lot width required in that particular District.
- B. Application of Lake Frontage Requirement. The required lake frontage shall apply to all lots and parcels located on or abutting either Otisco Lake or Skaneateles Lake, regardless of whether access to either lake is claimed by common-fee ownership, easement, park, single-fee ownership, condominium arrangement, association, license, lease (including ground lease), Planned Development District or other such means.
- C. Lakefront Access via Easement, Park, etc. (so-called "Keyhole Development"). No easement, private park, common area, lot or property abutting or adjoining Otisco Lake or Skaneateles Lake shall be used to permit access to either lake for more than one single-family dwelling, two-family dwelling or bed and breakfast or any similar use as permitted in each district.
- D. Lot Compliance. A separate waterfront lot shall not be created unless said lot meets the minimum lot width and area standards of the underlying zoning district.
- E. Lakefront Access by Clubs. Access to Otisco Lake or Skaneateles Lake by clubs and their membership shall be subject to the Special Use Permit provisions in Article VIII and any other relevant provisions of this Code.

7-16. Skaneateles Lake Watershed Procedures

- A. Application Procedures. A copy of any application for a building permit, area variance, use variance, special use permit, site plan application, zoning amendment, subdivision sketch plan, preliminary subdivision plat or (final) subdivision plat, occurring partly or wholly within the Skaneateles Lake Watershed, shall be submitted simultaneously with its submission to the Town, to the City of Syracuse pursuant to the City's Watershed Regulations, Section 131.1 of Part 131, Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York. Such submission shall be the applicant's responsibility.
- B. The City of Syracuse shall be considered an involved agency for purposes of the State Environmental Quality Review Act and shall be entitled to participate as a party in any proceeding before the Town Board, Planning Board or Zoning Board of Appeals.

- C. The reviewing board or Code Enforcement Officer shall incorporate all conditions and mitigation measures recommended by the City to ensure compliance with the City's Watershed Regulations. No variance from this subsection may be granted by the Zoning Board of Appeals unless a variance has first been obtained from the Commissioner of the Onondaga County Department of Health, as provided in the City's Watershed Regulations.
- D. The Town shall send the City copies of all permits or approvals granted by the Town pursuant to this section, including the rationale for granting such permits and all conditions and mitigation measures imposed. The Town shall also send the City copies of all denials of permits or approvals, including any reasons given for such denials. This subsection shall not apply to actions taken on building permits or subdivision sketch plans.

7-17. Performance Standards

A. Applicability

- (1) Town Board action. All uses subject to the requirements of this section may be established and maintained if their operation is approved by the Town Board as being in conformance with the standards and regulations limiting dangerous and objectionable elements, such as dust, smoke, odor, fumes, noise or vibration. In approving the site plan, the Town Board shall decide whether the proposed use will conform to these applicable performance standards or any additional performance standards required by state or federal laws or which are generally recognized performance standards for a given industry.
- (2) All uses subject to site plan review must comply with the performance standards established in this section.

B. In addition, if the Code Enforcement Officer has reasonable grounds to believe that any other existing or proposed use violates any of the performance standards, such proposed use may be required to certify compliance with these performance standards or such existing use may be cited for violation of these regulations.

C. Agricultural uses within state certified, county managed Agricultural Districts are not subject to the performance standards outlined in this Law.

D. Performance Standards Procedures

- (1) The Code Enforcement Officer as part of the sketch plan conference shall tentatively identify whether a proposed use will be required to certify compliance with any of the performance standards listed in this section. Certification may require signing a written statement or presentation of construction detail and a description of the specifications for the mechanisms and techniques to be used in restricting the emissions of any dangerous and objectionable elements. The applicant shall also file with such plans and specifications an affidavit acknowledging understanding and stating agreement to conform to the same at all

times. Any information which is designated by the applicant as a trade secret and submitted herewith will be treated as confidential under provisions of the New York State Freedom of Information Law. During the course of Site Plan Review, the Town Board will determine if the applicant's proposal falls within the performance standards.

(2) Vibration

- a. No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or beyond the lot lines, nor shall any vibrations produced exceed 0.002g peak at up to a frequency of fifty (50) cycles per second, measured at or beyond the lot lines using either seismic or electronic vibration measuring equipment.
- b. Vibrations occurring at higher than a frequency of fifty (50) cycles per second or a periodic vibration shall not induce accelerations exceeding 0.001 g. single impulse periodic vibrations occurring at an average interval greater than five (5) minutes shall not induce accelerations exceeding 0.01 g.

(3) Noise

- a. The maximum permissible sound level radiated by any use or facility at any lot lines shall not exceed the values in the designated octave bands given in Table 1. The sound-pressure level shall be measured with a sound level meter and associated octave-band analyzer conforming to standards prescribed by the American Standards Association. (American Standard Sound-Level Meters for Measurement of Noise and Other Sound, Z24.3-1944, American Standards Association, Inc., New York, and American Standard Specifications for an Octave-Bank Filter Set for the Analysis of Noise and Other Sound, Z24.10-1953, American Standards Association, Inc., New York, New York, shall be used.)

Table I	
Frequency Band (cycles per second)	Maximum Permitted Sound-Pressure Level (decibels)
0 to 75	69
75 to 150	60
150 to 300	56
300 to 600	51
600 to 1,200	42
1,200 to 2,400	40
2,400 to 4,800	38
4,800 to 10,000	35

- b. The maximum permissible sound level limits set forth in Table I shall not apply to any of the following noise sources:
 - i. Sound needed to alert people about an emergency.
 - ii. Repair or installation of utilities or construction of structures or streets between the hours of 7:00 a.m. and 9:00 p.m., except for emergency repairs which are not restricted by time.
 - iii. Household power tools and lawnmowers between the hours of 7:00 a.m. and 9:00 p.m.
 - iv. Motor vehicles operating on a public street or road.
 - v. Public celebrations authorized by a local, state or federal agency or body.
- (4) Smoke. The density emission of smoke or any other discharge into the atmosphere during normal operations shall not exceed visible gray smoke of a shade equal to or darker than No. 2 on the standard Ringelmann Chart. (A Ringelmann Chart is a chart published by the United States Bureau of Mines, which shows graduated shades of gray for use in estimating the light-obscuring capacity of smoke.) These provisions applicable to visible gray smoke shall also apply to visible smoke of a different color but with an apparent equivalent capacity.
- (5) Odor. Recurrently generated offensive odors shall not be perceptible by a person of ordinary sensitivity, without instruments, at any point of any boundary line of the lot or lots on which the use or structure is located. Odors from approved temporary construction activities and vehicles that leave the lot (such as trucks, trains, airplanes and helicopters) are excluded. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system so that control will be maintained if the primary safeguard system should fail. Odors shall be within the limit of any federal or state standards.
- (6) Fly Ash, Dust, Fumes, Vapors, Gases and Other Forms of Air Pollution. No emission shall be permitted which can cause any damage to health, animals, vegetation or other forms of property or which can cause any excessive soiling at any point beyond the boundaries of the lot. The concentration of such emission on or beyond any lot line shall not exceed 0.1 the maximum allowable concentration set forth in Section 12-29 of the Board of Standards and Appeals of the New York State Department of Labor, effective October 1, 1956, and any subsequent standards.
- (7) Electromagnetic Radiation. It shall be unlawful to operate or cause to be operated any planned or intentional source of electro magnetic radiation which does not comply with the current regulations of the Federal Communications Commission

regarding such sources or electromagnetic radiation, except that, for all governmental regulations regarding such sources of electromagnetic radiation of the Interdepartment Radio Advisory Committee shall take precedence over the regulations of the Federal Communications Commission. Further, said operation in compliance with the federal regulations shall be unlawful if such radiation causes an abnormal degradation in performances of other electromagnetic radiators or electromagnetic receptors of quality and proper design because of proximity, primary field, blanketing, spurious reradiation, harmonic content or modulation of energy conducted by power or telephone lines. The determination of abnormal degradation in performance and of quality and proper design shall be made in accordance with good engineering practices, as defined in the latest principles and standards of the American Institute of Radio Engineers and the Electronic Industries Association. In case of any conflict between the latest standards and principles of the above groups, the following precedence in interpretation of the standards and principles shall apply: American Institute of Electrical Engineers; Institute of Radio Engineers; and Electronic Industries Association.

- (8) Radioactive Radiation. No activities shall be permitted which emit dangerous radioactivity at any point beyond the property lines. The handling of such radioactive materials, the discharge of such materials into the air and water and the disposal of radioactive wastes shall be in conformance with the regulations of the Nuclear Regulatory Commission, as set forth in Title 10, Chapter 1, Part 20, as amended, and all applicable regulations of the State of New York.
- (9) Heat. Heat emitted at any or all points shall not at any time cause a temperature increase on any adjacent property in excess of 5°F., whether such change is in the air or on the ground, in a natural stream or lake or in any structure on such adjacent property.
- (10) Glare.
 - a. Direct Glare. No such direct glare shall be permitted, with the exception that parking areas and walkways may be illuminated by luminaries so hooded or shielded that the maximum angle of the cone of direct illumination shall be sixty degrees (60°) drawn perpendicular to the ground, and with the exception that such angle may be increased to ninety degrees (90°) if the luminary is less than four feet above ground.
 - b. Indirect glare. Indirect glare shall not exceed that value which is produced by an illumination of the reflecting surface, not to exceed 0.3 footcandle (maximum) and 0.1 footcandle (average). Deliberately induced sky-reflected glare, as by casting a beam upward for advertising purposes, is specifically prohibited.
- (11) Liquid or Solid Waste. No discharge shall be permitted at any point into a public sewer, stream or other waterbody, on or beneath a watershed or into the ground,

except in accordance with applicable state and local regulations, of any materials of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements. There shall be no accumulation of solid wastes conducive to the breeding of rodents or insects.

- (12) Storm Water. For all developments disturbing more than one (1) acre, the New York State Department of Environmental Conservation (NYSDEC) requires that municipalities receive a copy of the Storm Water Pollution Prevention Plan (SWPPP) prior to plan approval. Owner is required to comply with the NYSDEC's "SPDES General Permit for Storm Water Discharge from Construction Activity" Permit # GP-0-08-001, or as amended.

7-18. Professional Services Reimbursement

A. Authority

Pursuant to the authority granted by subparagraphs (a)(12) and (d)(3) of the Municipal Home Rule Law § 10(1)(iii) and Municipal Home Rule Law § 22, and to the extent that the Town Law of the State of New York does not authorize the Town Board, Town Planning Board or Zoning Board of Appeals to require the reimbursement to the Town of expenses incurred by the Town in connection with the professional review of applications for land use approvals, it is the expressed intent of the Town Board to change and supersede such statutes. More particularly, such statutes do not authorize the deferral or withholding of such approvals in the event such expenses are not paid to the Town. It is the expressed intent of the Town Board to change and supersede Town Law §§ 64(17-a), 264, 265, 267, 267-a, 267-b, 274-a, 274-b, 276, 277, 278, and 280-a to empower the Town to require such payment as part of the approval process.

B. Retention of Professional Services; Reimbursement by Applicant

- (1) The Town may hire any consultant and/or expert necessary to assist the Town in reviewing a land use application, including, but not limited to, technical or engineering consultants or legal counsel.
- (2) Except as otherwise provided in the Code, if, prior to the completion of a review of a land use application, the Town discovers the need to retain consultant and/or expert services, the applicant shall deposit with the Town funds sufficient to reimburse the Town for the reasonable costs of consultation and/or evaluation in connection with review of the application. The Town will maintain a separate escrow account for such funds.
- (3) Upon receipt of such funds, the Town Clerk shall cause the money to be placed in an account in the name of the Town and shall keep a separate record of all money so deposited and the name of the applicant and the project for which the sums were deposited.
- (4) The Town's consultants and experts shall invoice the Town for services rendered in reviewing the application. The Town shall furnish a copy of each invoice received to the applicant upon receipt of the invoice by the Town.

- (5) The Town shall review and audit all invoices received and shall approve payment only of such fees as are reasonable in amount and necessarily incurred by the Town in connection with a review of a land use application. For purposes of this chapter, a fee is reasonable in amount if it bears a reasonable relationship to the average charge by such an expert to the Town or others for services performed in connection with the review of a project similar to that involved in the land use application. In this regard, the Town may take into consideration the size and type of project involved in the land use application and any special conditions or considerations as the Town may deem relevant in connection with review of the particular land use application.
- (6) Contracts for the retention of experts shall be let pursuant to the purchasing policy of the Town unless the contract is one that must be competitively bid.

After payment of all outstanding invoices, any funds held by the Town upon completion of a review of a land use application shall be returned to the applicant.

C. Exception

Notwithstanding anything to the contrary contained in this section, an applicant or developer shall not be required to reimburse the Town for any part of a fee incurred by the Town for services performed in connection with matters, including but not limited to those resulting from complaints by third parties, as to which the Town determines the applicant had no responsibility or were beyond the reasonable control of the applicant.

7-19. Unsafe Buildings

A. Purpose

Unsafe buildings and structures pose a threat to life and property within the Town. Buildings and structures may become unsafe by reason of damage by fire, the elements, age, abandonment, lack of maintenance or repair, neglect or general deterioration. Unsafe buildings and structures that are, or may become, accessible internally serve as an attractive nuisance for children who may be injured therein, as well as a point of congregation for vagrants and transients. A dilapidated building or structure may also serve as a place for vermin infestation, thereby creating a threat to public health. This section is intended to provide for the general safety, health and welfare of persons and property in the Town by requiring that such unsafe buildings and structures be repaired or demolished and removed.

B. Definitions

Abandonment

The failure to use or occupy a building for its principal intended purpose for a period of three (3) years or more for any reason, regardless of intent.

Portion of a Building or Structure

Any debris, rubble or parts of a building that remain on the ground or on the premises after abandonment or demolition, reconstruction, fire or other casualty.

Unsafe Building

Any building or structure, or portion thereof, which:

- (1) Presents an imminent danger to the health, safety and welfare of the people or property of the Town of Spafford.;
- (2) Has improperly distributed load upon the floors or roofs or in which the same are overloaded or have insufficient strength to be reasonably safe;
- (3) Has been damaged by fire, wind, lack of maintenance or repair, or other causes so as to have become dangerous to life, safety, or the general health and welfare of the occupants or the people or property of the Town of Spafford;
- (4) Has become or is so dilapidated, decayed, unsafe or unsanitary or which fails to provide the amenities essential to decent or safe use or occupancy such that it is unfit for human use or occupancy or is likely to cause sickness or disease, so as to cause injury to the health, safety or general welfare of those using or occupying the building;
- (5) Has light, air, electrical or sanitation facilities which are inadequate to protect the health, safety or general welfare of persons who live or may live therein;
- (6) Has inadequate facilities for egress in case of fire or panic or insufficient stairways, elevators, fire escapes or other means of communication;
- (7) Has parts thereof that are so attached that they may fall and injure members of the public or property;
- (8) Because of its condition, is unsafe, unsanitary or dangerous to persons who live or may live therein or to the health, safety or general welfare of the people or property of the Town of Spafford;
- (9) Is open at the doorways, windows or walls, making it accessible to minors under the age of 18, vagrants, transients and other trespassers; or
- (10) Is a place of vermin infestation.

C. Unsafe Building

Such building or structure shall be considered uninhabitable and unusable, and be repaired or demolished and removed. Any Certificate of Occupancy / Certificate of Compliance shall be rescinded immediately and permanently.

D. Investigation and Report

When the Code Enforcement Officer shall, on the basis of information received or upon investigation by the Code Enforcement Officer, be of the opinion that a building or structure is unsafe, the Code Enforcement Officer shall cause or make an inspection thereof and make a report, in writing, to the Town Board, of all findings and recommendations in regard to its repair or demolition and removal.

E. Action by the Town Board

The Town Board shall thereafter consider such report and, if it finds that such building is dangerous and unsafe to the public, it shall by resolution order its repair if the same can be safely repaired and secured, and if not, order its demolition and removal, and shall further order that a hearing be held before the Town Board at a time and place therein specified to determine whether said order to repair or remove shall be affirmed or modified or vacated.

F. Contents of the Notice

The description of the premises in the notice shall be adequate if it is substantially the same as the description of the premises on the Town tax assessment rolls. The notice shall contain the following:

- (1) A description of the premises upon which the building or structure is located;
- (2) A statement of the particulars in which the building or structure is unsafe, dangerous, or otherwise in violation of the code;
- (3) An order outlining how the building or structure is to be made safe or demolished and removed;
- (4) A statement that the repair or demolition and removal of such building or structure shall commence within thirty (30) days of the service of the notice and shall be completed within sixty (60) days thereafter, unless, for good cause shown, such time limit may be extended for up to thirty (30) days. No more than one thirty-day extension shall be granted; and
- (5) A date, time and place for a hearing before the Town Board in relation to such dangerous or unsafe building, which hearing shall be scheduled no less than seven (7) calendar days nor more than fourteen (14) calendar days from the date of service of the notice.

G. Service of Notice

The notice shall be served in the manner described below:

- (1) By personal service, within the Town, of a copy thereof upon the owner, executor, administrator, agent, lessee or any person having a vested or contingent interest in such building or structure as shown by the records of the Town Assessor or of the

County Clerk; or by mailing to any such persons by certified or registered mail (return receipt) to the intended recipient's last known address as shown by the records of the Town Assessor; and

- (2) By personal service of a copy of such notice upon any adult person residing in or occupying said premises if such person can be reasonably found upon the premises of the unsafe building or structure; or by securely affixing a copy of such notice upon the unsafe building or structure.

H. Filing of Notice

A copy of the notice served as provided herein shall be filed in the Onondaga County Clerk's Office.

I. Penalties for Offenses

Any person who violates any provision of this section shall be guilty of an offense under this law and shall be subject to a fine, for the first week's continuation of such violation following service of notice provided herein or any portion of that week of not less than one hundred dollars (\$100.00) nor more than two hundred fifty dollars (\$250.00), or to imprisonment for a period of not more than fifteen (15) days, or both such fine and imprisonment. In addition, any person who violates any of the provisions of this section or who shall omit, neglect or refuse to do any act required by this section shall, severally, for each and every such violation, forfeit and pay a civil penalty of one hundred dollars (\$100.00) per day for each day of continued violation in excess of the first week following the service of notice as provided herein. The imposition of penalties for any violation of this section shall not excuse the violation or permit it to continue. The application of the above penalty or penalties for any violation shall not preclude the enforced removal of conditions prohibited by this section.

J. Assessment of Expenses

All expenses incurred by the Town in connection with the proceeding to repair or demolish and remove any unsafe building or structure, including, but not limited to, the cost of actually repairing or demolishing and removing such building or structure and legal fees and expenses, shall be assessed against the land on which such building or structure is located and shall be levied and collected in the same manner as provided in Article 15 of the Town Law for the levy and collection of a special ad valorem tax.

K. Emergency Provisions

Where it reasonably appears to the Code Enforcement Officer that there is present a clear and imminent danger to the safety, health or welfare of any person or property unless an unsafe building or structure is immediately repaired or demolished and removed, the Town Board may, by resolution, authorize the Code Enforcement Officer to immediately cause the repair or demolition of such unsafe building or structure. The expense of such repair or demolition shall be a charge against the land on which it is located and shall be assessed, levied and collected as provided in subsection (I) above.

7-20. Greenhouses

- A. Greenhouses measuring no more than one hundred forty-four (144) square feet are permitted.
- B. Greenhouses larger than one hundred forty-four (144) square feet are governed by the following:
 - (1) Said greenhouse shall be substantially in character with surrounding residences.
 - (2) No principal or accessory structure, for commercial use only, shall be located closer than thirty (30) feet to any side or rear property line.
 - (3) A buffer strip consisting of interlocking trees and foliage shall be provided on all side and rear property lines.

7-21. Filling and Excavating

- A. Any excavation or filling in excess of one (1) acre, including removal of topsoil, shall require Site Plan Review by the Town Board in accordance with the requirements of Article XIV.
- B. Placement of fill must be in accordance with a Town Board approved site plan, particularly sections in relation to drainage, erosion control and flood hazard prevention. Installation or improvement of natural or constructed drainage channels may be required to assure adjacent property owners are not negatively impacted by fill activities.
- C. Any grade alteration, which involves removal of vegetation, but no built improvements on an area greater than one (1) acre, shall be seeded to provide an effective cover crop within the first season after initiation of the grade change operation.
- D. Only unregulated fill materials, such as uncontaminated soil, asphalt, brick, stone, concrete, glass and organic debris from the premises may be used in such fill activities.

7-22. Outdoor Storage of Materials and Equipment

- A. No material of any kind shall be stored outdoors in any zoning district, except a one- or two-family lot, unless:
 - (1) Allowed as part of an approved site plan;
 - (2) Used in the construction or alteration of a structure on the same lot or in the same development and stored for not more than one (1) year or not more than sixty (60) days after completion of construction, whichever is less;
 - (3) Such outdoor storage is limited to machinery, equipment or supplies essential to the operation of a farm or storage of any products grown on the premises of a farm or nursery;

- (4) The property is located in a state certified, county managed Agricultural District and the storage is expressly allowed by New York State Agricultural and Markets Law; or
 - (5) Such outdoor storage is limited to functional machinery, equipment or supplies essential to the operation of a business or hobby.
 - (6) Such outdoor storage shall be located not less than one hundred (100) feet from an adjacent residence, and when viewed in plain sight from any property line, such outdoor storage shall be located not less than fifty (50) feet from any property line.
- B. All enclosed storage shall be within structures, which meet the requirements of the New York State Uniform Fire Prevention and Building Code. Storage of and in manufactured homes not connected to public utilities or tractor-trailer bodies is not allowed in any district.
- C. Outdoor storage shall, to the extent practicable, be located behind a fence or vegetative screen to shield such storage from view.

7-23. Manufactured Homes

Except as discussed in Section 8-16, manufactured homes shall be permitted in every district in the Town in accordance with the following requirements:

- A. All manufactured homes shall have skirting and a foundation that conforms to the manufacturer's requirements and the New York State Building Code.
- B. All manufactured homes shall have a minimum roof pitch of 4:12.
- C. All manufactured homes shall have a minimum width of twenty-four (24) feet and a minimum length of forty (40) feet.
- D. All manufactured homes shall be considered single family residences and shall comply with the requirements for single family residences as set forth in the bulk use tables contained in the Appendix, as well as any other applicable provisions in this Code.

ARTICLE VIII
Regulations Applicable to Special Use Permits

8-1. Special Use Permits

A. Procedure

- (1) The Town Board of Spafford Zoning Board of Appeals shall hear and decide upon applications for special use permits for any of the uses for which this Law requires the obtaining of a special use permit.
- (2) An Applicant shall have the burden of proof in establishing a right to a special use permit.
- (3) General Requirements and Standards Applicable to All Special Use Permits. The Zoning Board of Appeals shall grant a special use permit when it finds adequate evidence that any proposed use submitted for a special use permit will meet all of the following general requirements as well as any specific requirements and standards listed for the proposed use under this Article. The Board shall among other things require that any proposed use and location be:
 - a. In the best interests of the Town, the convenience of the community, the public welfare, and that it not be a detriment to property in the immediate vicinity.
 - b. Suitable for the property in question, and designed, constructed, operated and maintained so as to be in harmony with and appropriate in appearance with the existing or intended character of the general vicinity.
 - c. In conformance with all applicable requirements of this Law.
 - d. Suitable in terms of effects on street or highway traffic and safety with adequate access arrangements to protect major streets from undue congestion and hazard.
 - e. The location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings or impair their value.
 - f. The proposal will not significantly increase the possibility of nuisance or noise from the site.
 - g. The proposal provides for adequate parking in accordance with this Law.
- (4) In granting a special use permit, the Zoning Board of Appeals may impose conditions regarding layout, circulation and performance as it deems necessary to insure that any proposed development will secure substantially the objectives of this Law. These conditions may include but are not limited to the following:

- a. Increasing the required lot size or yard dimension.
- b. Limiting the height, size or location of buildings.
- c. Controlling the location and number of vehicle access points.
- d. Increasing the number of required off-street parking spaces.
- e. Limiting the number, size, location and lighting of signs.
- f. Requiring fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
- g. Designating sites for open space.

8-2. Adult-Oriented Business

In order to prevent the negative secondary effects of adult entertainment establishments, the following restrictions apply:

- A. No adult-oriented business shall be permitted in a building any part of which is used for residential purposes, including non-conforming residential uses.
- B. No more than one adult-oriented business shall be permitted in any building, or on any lot.
- C. No minor (under the age of 18) shall be permitted onto the premises of any adult-oriented business.
- D. The exterior of the adult-oriented business structure shall be consistent with the character of the surrounding structures and shall not detract from the appearance of the neighborhood.
- E. An adult-oriented business shall not be located within five hundred (500) linear feet from any building used for: residential purposes, a group care facility, a child care center, a regular place of religious worship, a public or private school, a public or semi-public building, a medical center, a community center, or another adult-oriented business. Such distance shall be measured from the closest lot lines.
- F. An adult-oriented business shall not be located or operated within five hundred (500) linear feet of the property line of a public park, recreational facility, health facility, or trail.
- G. All adult-oriented business shall be conducted within enclosed buildings.
- H. Adult-oriented businesses are prohibited from the OL and SL Districts.

8-3. Automobile and General Repair

A. Location

No station, or parts thereof, shall be located within two hundred (200) feet, measured along contiguous street frontages, of any place of residence or public assembly such as, but not limited to churches, schools, theaters, auditoriums, parks and playgrounds.

B. Size

No more than two (2) service bays shall be permitted in the R-A District unless the following circumstance exists:

- (1) One (1) service bay and may be added for each thirty (30) feet of frontage additional to the minimum required herein, provided such additional frontage has a depth at least equal to that of the other portion of the lot, if located in the R-A District.

C. Lot Coverage

Lot coverage for such station shall not be more than forty percent (40%) of the site.

D. Minimum Yard Requirements

- (1) All structures shall be set back from the street line a distance of not less than forty (40) feet.
- (2) No portable signs or other devices shall be located within the setback area required in the preceding paragraph (d)-1, except as otherwise provided in Article XII.
- (3) Side and rear yards of not less than twenty-five (25) feet shall be provided along all other property lines. Such yards shall be provided with an opaque fence of not less than four (4) feet, nor more than six (6) feet in height placed along the property line, or provided with an all-year, solid, evergreen hedge of not less than four (4) feet in height planted along the property line and a ten (10) foot wide landscaped strip adjacent to such residential area.

E. Non-Roofed Areas

Non-roofed areas where vehicles are stored or staged shall be designed to prevent leakage or drainage of any automotive fluids into the ground or surface water.

F. Ingress and Egress

Facilities shall be located a minimum of forty (40) feet from the intersection of right-of-way lines of any road.

G. Lighting

- (1) All lighting shall be located such as to prevent the direct rays from shining upon adjacent properties.
- (2) All flickering, pulsating, or flashing lights and exposed neon lights are specifically prohibited.

H. All automotive parts, tools, equipment, dismantled vehicles, and similar related materials shall be stored within a building.

8-4. Boathouses

A. General Requirements

A boathouse may be constructed by a property owner only if a Building Permit has been issued by the Code Enforcement Officer, and provided that the boathouse complies with this Code and the requirements of all other local, state and federal regulations.

B. Erosion Control Plan

Implementation of an approved erosion control plan is required.

C. New Construction Requirements

(1) Setbacks.

- a. SL District: Shall be located no closer than seventy-five (75) feet from any side property boundary.
- b. OL District: Shall be located no closer than thirty-five (35) feet from any side property boundary.

(2) Size, Number, Configuration and Placement

- a. The maximum footprint of a new boathouse shall not exceed the following (excluding overhangs):
 - (i) one (1) percent of the lot area in the SL District
 - (ii) five (5) percent of the lot area in the OL District.
- b. The footprint of a boathouse shall be of rectangular or square configuration. Boathouses shall be constructed with solid walls.

(3) Height and Roof Requirements

- a. The overall height of a boathouse shall not exceed fifteen (15) feet above the high water mark.

- b. Overhangs for roofs shall not exceed eighteen (18) inches.
- c. The roof slope shall not be less than 4:12 (rise: run) nor greater than 6:12 (rise: run).

D. Boathouse Use, Restrictions and Prohibitions

- (1) The use of any new or existing boathouse for any purpose other than storage of watercraft and related equipment is prohibited.
- (2) Boathouses shall not be used in any way for human habitation.
- (3) Boathouses shall not contain any plumbing or kitchen facilities.

E. Limitation of Boathouse Numbers

Only one (1) boathouse is permitted per lot.

8-5. Commercial Dog Kennel

- A. Minimum lot size shall be seven (7) acres.
- B. No wholly or partly non-residential structure housing a dog kennel shall be closer than one hundred (100) feet to any property line.
- C. Kennels shall be designed in a manner that provides indoor shelter and outdoor runs. Outdoor runs shall be enclosed by a fence no less than five (5) feet in height.
- D. In addition to the fencing required for the individual kennel runs, the area surrounding the kennels or collection of kennels shall be enclosed by a fence no less than five (5) feet in height.

8-6. Emergency Dwellings

In the event that the dwelling is rendered uninhabitable by fire, flood, or by a similar natural or manmade disaster, the Zoning Board of Appeals may authorize the placement of an emergency dwelling upon the lot where said damaged dwelling is located. An emergency dwelling shall be a safe and healthful dwelling unit that meets all applicable building, fire, health or other codes. The Zoning Board of Appeals may waive such terms of this law so as to allow the placement and use of such a structure upon the same lot as the damaged dwelling, for occupancy during the period that the damaged dwelling is being repaired or replaced. Such emergency dwelling shall be removed within ten (10) days of the issuance of the Certificate of Occupancy for the repaired or replaced dwelling.

- A. An emergency dwelling is permitted only to meet a documented emergency need.
- B. The maximum length of time such an emergency dwelling may be on a lot is one (1) year. An extension of one (1) year making a total time period of two (2) years from the initial permit may be granted by the Zoning Board of Appeals in cases of documented

hardship. The hardship must result from circumstances beyond the control of the applicant that prevent the applicant from complying with the requirements of this section. An extension may be granted only once.

- C. An emergency dwelling must have running water and must be connected to a totally enclosed septic system, or public sewer.

8-7. Gas Station / Convenience Store

A. Location

No station, or parts thereof, shall be located within two hundred (200) feet, measured along contiguous street frontages, of any place of residence or public assembly such as, but not limited to churches, schools, theaters, auditoriums, parks and playgrounds.

B. Size

No more than four (4) gas pumps shall be permitted in the RA District unless the following circumstances exist:

- (1) One (1) pump island may be added for each thirty (30) feet of frontage additional to the minimum required herein, provided such additional frontage has a depth at least equal to that of the other portion of the lot, if located in the RA District.

C. Lot Coverage

Lot coverage for such station shall not be more than forty percent (40%) of the site.

D. Minimum Yard Requirements

- (1) All structures, except for underground storage tanks, shall be setback from the street line a distance of not less than forty (40) feet.
- (2) No portable signs or other devices shall be located within the setback area required in the preceding paragraph (d)-1, except as otherwise provided in Article XII.
- (3) Side and rear yards of not less than twenty-five (25) feet shall be provided along all other property lines. Such yards shall be provided with an opaque fence of not less than four (4) feet, nor more than six (6) feet in height placed along the property line, or provided with an all-year, solid, evergreen hedge of not less than four (4) feet in height planted along the property line and a ten (10) foot wide landscaped strip adjacent to such residential area.
- (4) Gasoline Pump Islands shall be located not less than twenty-five (25) feet from the street right-of-way lines and not less than thirty (30) feet from all other property lines.

E. Open Area

All open area shall be landscaped, where required, or paved with an impervious, all-weather, dustless material, provided, however, all such paved area shall be provided with a storm drainage system to conduct surface run-off into the nearest drainage system.

F. Ingress and Egress

Ingress and egress points for Gasoline Service Facilities shall be located a minimum of forty (40) feet from the intersection of right-of-way lines of any road.

G. Lighting

(1) All lighting shall be located such as to prevent the direct rays from shining upon adjacent properties.

(2) All flickering, pulsating, or flashing lights and exposed neon lights are specifically prohibited.

H. All automotive parts, dismantled vehicles, and similar related articles shall be stored within a building.

I. Additions or Improvements to Existing Gasoline Service Stations

Additions or improvements to any existing gasoline service station may be permitted upon compliance with the procedures established for the location of new stations, provided such additions or improvements comply with the requirements of this Article.

8-8. Home Occupations

A. A home occupation shall be carried on wholly indoors and within the principal building or within an accessory structure on the same parcel.

B. There shall be no use of show windows, displays, or advertising visible outside the premises to attract customers or clients other than signs as permitted.

C. There shall be no exterior storage of materials.

D. No external alterations, additions, or changes to the structure shall be permitted in order to accommodate or facilitate a home occupation, if the alterations would alter the residential character of the building.

E. No articles shall be sold or offered for sale except such as may be produced on the premises, or as may be delivered to consumers.

F. A home occupation shall be carried on only by members of the immediate family residing in the dwelling unit plus not more than one (1) additional employee.

- G. The floor area devoted to a home occupation shall not be more than twenty-five (25) percent of the ground floor area of the principal residential structure or five hundred (500) square feet, whichever is less.
- H. In particular, a home occupation includes, but is not limited to the following: art studio; professional office of a physician, dentist, lawyer, engineer, architect, writer, or accountant; beauty parlor or barber shop; the repair of appliances or other small items; and the teaching of not more than four (4) pupils simultaneously.
- I. Among the uses that shall not be interpreted to be a home occupation are the following: animal hospital, commercial stables and kennels, and restaurant.
- J. The off-street parking area shall be able to accommodate a minimum of three (3) parked cars.
- K. A business intent form must be on file with the Clerk and it must be reviewed and approved by the Code Enforcement Office.

8-9. Ponds

A pond or any artificial body of water over a depth of two (2) feet must be set back a minimum of one hundred (100) feet from existing septic systems. Warning signs or other visual indicators may be required as determined by the Zoning Board of Appeals.

8-10. Riding Academy

- A. This section shall apply to any riding academy not located within a state certified, county managed agricultural district.
- B. Minimum lot size shall be seven (7) acres.
- C. No stable shall be less than one hundred (100) feet from any lot line.
- D. A fence shall shield any refuse disposal, which shall not be disposed of or stored within one hundred (100) feet of any property line.
- E. A riding academy shall conform with the requirements set forth in section 6-1(H), as well as the Bulk Use Table and Keeping and Raising of Livestock Animal Unit Table in the Appendix.

8-11. Temporary Uses and Structures

Temporary use permits may be issued by the Code Enforcement Officer for a period not exceeding one (1) year for nonconforming uses incident to housing and construction projects, including such structures and uses as the storage of building materials and machinery, the processing of building materials, a real estate office located on the tract being offered for sale or a temporary dwelling, such as a recreational vehicle with appropriate provisions for water supply and sewage disposal used during construction of a dwelling, provided that such permits are

conditioned upon agreement by the owner or operator to remove the structure or structures or use upon expiration of the permit or issuance of any applicable Certificate of Occupancy. Such permits may be renewed upon application to the Code Enforcement Officer for additional periods not exceeding one (1) year.

8-12. Portable Housing

Except as permitted by Section 8-11, Temporary Uses and Structures, no person shall use or occupy any portable housing unit, including a travel trailer, tent trailer, tent or motor home for living or sleeping quarters within the Town for more than forty-five (45) days per calendar year, unless such use is carried on within a campground.

8-13. Wind Energy Conversion Systems

A. The siting and use of Wind Energy Conversion Systems (WECS) must be in accordance with special use permit regulations contained in this Article and the additional regulations set forth below.

B. Definitions

Site

The lot on which a wind energy facility is to be located.

Wind Energy Conversion System

A machine that converts the kinetic energy in the wind into a usable form (commonly known as a “windmill” or “wind turbine”) and which is intended for personal use to generate on-site power and reduce on-site consumption of utility power.

Wind Energy Facility

Any wind energy conversion system, including all related cables and equipment necessary for its operation.

Total Height

The total height of the tower or pole and the furthest vertical extension of the WECS.

C. Applicability

- (1) WECS are permitted in the A-R District only.
- (2) No more than one WECS shall be permitted on a particular lot.
- (3) Any subdivision that creates more than one lot still owned by one individual or entity cannot be used for a wind energy conversion system on each lot as long as it is still owned by one individual or entity.

D. Applications for Wind Energy Conversion Systems

- (1) A WECS shall only be permitted, altered or relocated upon application for and receipt of a special use permit from the Zoning Board of Appeals.
- (2) A special permit for a WECS shall not be issued unless the Zoning Board of Appeals determines that the application meets all of the following criteria:
 - (a) shall not be installed in any location where its proximity interferes with existing fixed broadcast, retransmission or reception antenna for radio, television or wireless telephone service providers.
 - (b) shall be located with relation to property lines so that the level of noise produced during wind turbine operation shall not exceed 40 dbA, measured at the boundaries of all the closest lots that are owned by non-site owners and that abut either the site lot(s) or any other lots adjacent to the site lot held in common by the owner of the site lot as those boundaries exist at the time of special permit application.
 - (c) shall contain an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and turbine components.
 - (d) the minimum distance between the ground and any part of the WECS rotor blade system shall be twenty (20) feet.
 - (e) all cables and power transmission lines from the WECS electricity generation facilities shall be underground.
 - (f) each WECS shall be set back from all residential structures located on the property and all property lines a minimum distance equal to the total height of the WECS plus five percent of such height.
 - (g) no WECS shall be located closer than two hundred (200) feet from any lot located in the S-L or O-L Districts.
 - (h) the total height of a WECS shall not exceed 60 feet.
- (3) The Zoning Board of Appeals may require the applicant to provide adequate and suitable screening, fencing, anti-climbing protection or other protective measures as it deems necessary or proper to reduce or eliminate aesthetic impacts and ensure the public health and safety of the residents of the Town of Spafford.

E. Removal

If a WECS is inoperable for a period of at least twelve (12) consecutive months, the Zoning Board of Appeals shall have the authority to terminate the special permit and

require the owner of the WECS to remove it from the lot within ninety (90) days of receipt of written notification..

8-14. Outdoor Wood Boilers

A. Purpose

Outdoor wood boilers are being used more frequently as an alternative to typical heating systems. The purpose of this Section is to ensure that adequate regulations exist regarding the permitting, placement and operation of such boilers to preserve and protect the public health, safety and welfare and ensure that such boilers do not create a nuisance to the residents of the Town of Spafford.

B. Prohibitions

- (1) No person shall operate an outdoor wood boiler that does not meet the requirements set forth in this section.
- (2) No person shall cause or allow emissions of air contaminants from an outdoor wood boiler to the outdoor atmosphere of a quantity, characteristic or duration which is injurious to human, plant or animal life or to property, or which unreasonably interferes with the comfortable enjoyment of life or property. This prohibition applies, but is not limited to, the following conditions:
 - (a) activating smoke detectors in neighboring structures;
 - (b) impairing visibility on a public highway; or
 - (c) causing a continuous visible plume migrating from an outdoor wood boiler and contacting a building on an adjacent property.

The prohibition further applies to any particulate, fume, gas, mist, odor, smoke, vapor, pollen, toxic or deleterious emission, either alone or in combination with others, emitted from an outdoor wood boiler that results in the conditions or circumstances listed in this subdivision, notwithstanding the existence of specific air quality standards or emission limits.

- (3) Outdoor wood boilers are prohibited in the Otisco Lake and Skaneateles Lake zoning districts.

C. Approved Fuels

Only clean wood shall be burned in an outdoor wood boiler.

D. Approved Models

Any outdoor wood boiler that is installed, extended, enlarged or replaced after the effective date of this Code shall comply with the United States Environmental Protection Agency's Phase 2

emissions standards at a minimum and display the corresponding Phase 2 (or better) Qualified hang tag.

E. Residential-Size New Outdoor Wood Boiler

- (1) Setback. A residential-size new outdoor wood boiler shall not be located:
 - (a) less than 150 feet from the nearest property line; and
 - (b) less than 300 feet from the nearest property line of any property located in the Otisco Lake or Skaneateles Lake zoning district.
- (2) Lot Size. A residential-size new outdoor wood boiler shall not be located on a lot less than three (3) acres in size.
- (3) Stack Height. A residential-size new outdoor wood boiler shall be equipped with a permanent stack as specified by the manufacturer. However, if the Town determines that such outdoor wood boiler is in violation of any of the provisions of Section K below, the Town has the authority to require that such stack be extended up to a maximum of two (2) feet above the peak of any dwelling on the lot or any neighboring dwelling located within 300 feet of such boiler.

F. Commercial-Size New Outdoor Wood Boiler

- (1) Setback. A commercial-size new outdoor wood boiler shall not be located:
 - (a) less than 250 feet from the nearest property line; and
 - (b) less than 500 feet from the nearest property line of any property located in the Otisco Lake or Skaneateles Lake zoning district.
- (2) Lot Size. A commercial-size new outdoor wood boiler shall not be located on a lot less than five (5) acres in size.
- (3) Stack Height. A commercial-size new outdoor wood boiler shall be equipped with a permanent stack extending a minimum of eighteen (18) feet above the ground and two (2) feet above the peak of any dwelling on the lot or any neighboring dwelling located within 300 feet of such boiler.
- (4) A commercial-size new outdoor wood boiler shall not be used solely for residential purposes.

G. Permanent Label

A permanent label shall be affixed to all new outdoor wood boilers and shall contain the following information:

- (1) name and address of the manufacturer;

- (2) date of manufacture;
- (3) model name and number;
- (4) serial number;
- (5) thermal output rating in Btu/h;
- (6) list of approved fuels that may be burned in the new outdoor wood boiler; and
- (7) certified particulate emission rate in grams per hour.

H. Special Use Permit Application Requirements for New Outdoor Wood Boilers

- (1) A person wishing to install and operate a new or replacement outdoor wood boiler shall be required to obtain a special use permit from the Town of Spafford Zoning Board of Appeals in accordance with the requirements of this Article. In addition to the requirements set forth above regarding special use permit applications, an application for a special use permit shall also include the following information, at a minimum:
 - (a) a survey or site plan prepared by a licensed professional engineer, architect or land surveyor, or a sketch prepared by the applicant or its agent (such sketch may be subject to verification by the Code Enforcement Officer), that shows:
 - (i) the location of the outdoor wood boiler;
 - (ii) the acreage of the lot on which the outdoor wood boiler will be located;
 - (iii) the setback distances to the nearest property lines as set forth in (E)(1) and (F)(1) above;
 - (iv) the location and setback distance of any dwelling located on the lot and any neighboring dwelling located within 300 feet of the outdoor wood boiler; and
 - (v) the top-of-stack elevation plus the elevations of all peaks of dwellings within a 300-foot radius from the outdoor wood boiler.
 - (b) plans and specifications regarding the installation of the outdoor wood boiler; and
 - (c) any additional information deemed necessary by the Zoning Board of Appeals.
- (2) The Zoning Board of Appeals shall hold a public hearing concerning any application for a special use permit to install an outdoor wood boiler.

- (3) In determining whether to approve or deny a special use permit application, the Zoning Board of Appeals shall consider several factors, including, but not limited to, the following:
 - (a) the intended use of the outdoor wood boiler;
 - (b) the source of fuel for the outdoor wood boiler;
 - (c) the location of the outdoor wood boiler as it relates to existing structures on the lot and any adjacent properties and structures;
 - (d) the topography and/or environmental setting of the lot and adjacent properties (*e.g.*, wooded, open fields, prevailing wind patterns, etc.); and
 - (e) any public comments received.
- (4) Any person who receives a special use permit from the Zoning Board of Appeals for an outdoor wood boiler shall also be required to obtain from the Town of Spafford Building Department a building permit and certificate of compliance before such boiler may be operated.

I. Existing Outdoor Wood Boilers

- (1) A special use permit shall not be required for an existing outdoor wood boiler, but any such boiler must be in compliance with subsections (B)(2)-(3), (C), (I) and (J) within one (1) year of the effective date of this section. The failure of any person who owns an existing wood boiler to comply with this section within such time shall be deemed a violation subject to enforcement by the Town of Spafford Building Department pursuant to subsection (K) below.
- (2) Any person wishing to extend, enlarge or replace an existing outdoor wood boiler shall be required to comply with the requirements of this section in its entirety, including all special use permit application requirements.

J. Compliance with Laws

Any person that owns or operates an outdoor wood boiler shall comply with all applicable local, state and federal laws and regulations regarding outdoor wood boilers, including all applicable emissions standards.

K. Enforcement

- (1) The Town of Spafford Building Department reserves the right to suspend or revoke any permit issued for an outdoor wood boiler in order to protect the health, safety and welfare of the residents of the Town of Spafford, if any of the following conditions occur:

- (a) The emissions from the outdoor wood boiler interfere with the reasonable enjoyment of life or property;
 - (b) The emissions from the outdoor wood boiler cause damage to vegetation or property;
 - (c) The emissions from the outdoor wood boiler are or may be harmful to human or animal health;
 - (d) Malodorous air contaminants from the outdoor wood boiler are detectable outside the lot on which the boiler is located.
- (2) A permit that has been suspended may be reinstated by the Town of Spafford Building Department once the condition(s) that resulted in suspension or revocation is remedied and reasonable written assurance is provided by the permit holder that such condition(s) will not recur.
- (3) Failure to comply with any of the provisions of this chapter shall constitute a violation of the Town of Spafford Zoning Ordinance and shall be punishable in accordance with the provisions of Article IV. In addition, any permit issued pursuant to this section shall be revoked upon conviction of a second offense, and the subject outdoor wood boiler shall not be eligible for another permit. The owners of the real property upon which prohibited acts occur shall be jointly and severally liable for violations of this section. Any fine imposed hereunder shall constitute a lien upon the real property where the outdoor wood boiler is located until paid.

8-15. Mining Operations

A. Application Requirements

- (1) All applications for mines and mining operations as defined in this Code (excluding mining of consolidated material, which is prohibited) shall comply with the standards set forth in Article XIV (Site Plan Review) and are subject to special use permit review.
- (2) A special use permit is not required for any mining operation which proposes to mine less than one thousand tons or seven hundred fifty cubic yards, whichever is less, of minerals from the earth within twelve successive calendar months, and which does not require a mining permit from the New York State Department of Environmental Conservation. Mining in aid of onsite construction will require a special permit application.
- (3) In determining whether to grant or deny a special use permit application for mining, the Zoning Board of Appeals shall consider all applicable special use permit and performance standards criteria.

- (4) If a determination is made to grant a special use permit subject to conditions, such conditions may include any and all conditions allowed under New York law, including but not limited to the following:
- (a) Evidence must be submitted to the reviewing board's satisfaction that the site will not impose undue damage or excessive wear and tear upon roads and bridges controlled by the local government by virtue of the type and volume of traffic to be generated by the proposed operation. If such evidence is not submitted, the applicant shall procure in advance a bond to cover costs of road and bridge repair arising from such traffic. The amount of the bond shall be determined by the reviewing board, and shall be subject to annual review and adjustment at the reviewing board's sole discretion.
 - (b) Routing of mineral transport vehicles on roads controlled by the local government shall be determined by the reviewing board based upon evidence gathered by the board and submitted by the applicant and/or any interested persons. Public health, safety and general welfare considerations shall principally govern the selection of appropriate routes.
 - (c) The boundaries of any mining operation permitted herein shall be set back at least two hundred (200) feet from any property line, the boundary line of any street or public thoroughfare right-of-way, or any residence or other human-occupied structure.
 - (d) Mine access roads at all points, including but not limited to the main entrance and exits of the mine, shall be set back at least two hundred (200) feet from any existing residence or public building.
 - (e) A barrier consisting of (i) gates across all ingress and egress points; and (ii) ditching, berming or erection of other similar physical barriers to deter unauthorized vehicular access to the mine. All gates shall be closed and locked at all times except during working hours of such operations or when employees shall be within.
- (5) If the reviewing board finds that the above conditions either will not be imposed as written upon the applicant, or will not be sufficient to enable the proposed mining application to comply with applicable special use permit and performance standards criteria, it shall deny the special use permit.

B. Prohibitions

No mine or mining shall be permitted in any district other than the Residential-Agricultural District.

8-16. Manufactured Homes

- A. A single wide manufactured home shall be allowed in accordance with this Article, as well as the following conditions:
- (1) A single wide manufactured home must be at least twelve (12) feet wide and forty (40) feet long, or at least 480 square feet in size.
 - (2) A single wide manufactured home must have a minimum roof pitch of 3:12.
 - (3) The Zoning Board of Appeals shall consider the age and condition of a single wide manufactured home.
 - (4) Single wide manufactured homes shall be limited to the RA District only.
 - (5) A single wide manufactured home shall not be located in close proximity to established subdivisions or neighborhoods within the RA District that are comprised primarily of non-manufactured homes, including, but not limited to, the following: Tracey Drive; Singing Woods; Locust Lane; Bockes Road; and Pine Grove Road.

ARTICLE IX
Nonconforming Uses, Buildings and Lots

9-1. Continuation

The lawful use of any structure or land existing at the effective time of this Local Law may be continued although such use does not conform to the provisions of the Law except as otherwise provided in this Article.

9-2. Alteration or Extension

A. A use of land or structure which does not conform to the regulations of this Law shall not be altered, reconstructed, extended or enlarged, except in accordance with the following provisions:

- (1) Such alteration or extension shall be permitted only upon the same lot as in existence at the date the use became nonconforming.
- (2) Any increase in volume, area or extent of the nonconforming use shall not exceed an aggregate of more than twenty-five percent (25%) in the RA District or more than 10% in the OL and SL Districts during the life of the nonconformity.
- (3) Any alteration, reconstruction, extension or enlargement shall comply with all setback requirements for that particular district.

(Amended by Local Law 2011-2 adopted 5/12/11)

9-3. Restoration

No structure damaged by fire or other causes to the extent of more than fifty percent (50%) of its fair market value shall be repaired, reconstructed or used except in conformity with the regulations of this Law. A structure with damage to the extent of fifty percent (50%) or less of the fair market value may be reconstructed, repaired or used for the same nonconforming use subject to the following provisions:

- A. The reconstructed structure shall not exceed the height or square footage of the damaged structure except as provided by Section 9-2. (Amended by Local Law 2011-2 adopted 5/12/11)
- B. Reconstruction shall begin within six (6) months from the date of damage and shall be carried on without interruption. Upon written request, one six (6) month extension may be granted by the Code Enforcement Officer provided proof of hardship is shown.

9-4. Substantial Abandonment

Whenever a nonconforming use has been discontinued for twelve (12) consecutive months, such use shall not thereafter be reestablished and any future use shall be in conformance with the provisions of this Article.

9-5. Changes

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

- A. Such change shall be permitted only by special use permit, under the provisions of Section 8-1.
- B. The applicant shall show that the nonconforming use cannot reasonably be changed to a permitted use in the district where such nonconforming use is located.

9-6. Displacement

No non-conforming use shall be extended to displace a conforming use.

9-7. District Changes

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification the foregoing provisions shall also apply to any nonconforming uses or structures existing therein.

ARTICLE X
Fencing Regulations

10-1. General Requirements

A. Unless otherwise provided in this Code, all fencing constructed or placed on any lot in the Town shall:

- (1) have a maximum height of six (6) feet;
- (2) have the finished side facing away from the lot on which the fence is located;
- (3) be maintained in good working order; and
- (4) be constructed on a lot so as not to obstruct motor vehicle site distances.

B. Setbacks

- (1) Fencing in all districts shall have a minimum setback of six (6) inches from all property lines.
- (2) Fencing located in the Skaneateles Lake or Otisco Lake Districts shall have a minimum setback of twenty-five (25) feet from the high water mark.

ARTICLE XI
Off-Street Parking and Loading Regulations

11-1. Intent

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

11-2. Applicability

In all districts, every industrial, business, institutional, recreational, residential or other use shall provide, at the time of any change of use or when any building or structure is erected, enlarged or increased in capacity, off-street parking for motor vehicles in accordance with the requirements of this and other applicable sections of these regulations, especially site plan approval in accordance with Article XIV.

11-3. Handicapped Parking

The location, dimensions and signage of handicapped parking shall meet the requirements of the New York State Uniform Fire Prevention and Building Code.

11-4. Required Off-Street Parking and Loading Spaces

A. Parking Space. The following off-street parking provisions constitute the minimum space required for the following buildings and uses hereafter erected, converted or otherwise established in any district.

- (1) One-Family Detached Dwelling and Two-Family Dwelling: Two (2) off-street parking spaces for each dwelling unit.
- (2) Bed & Breakfast: One (1) off-street parking space for each rental room or suite, plus one (1) additional space for every five (5) rental room or suite for employees.
- (3) Eating or Drinking Establishment: Two (2) off-street parking spaces for each fifty (50) square feet of floor area.
- (4) Church, Library and Fire Station: One (1) off-street parking space for every four (4) seats of the listed maximum occupancy of the property, plus three (3) additional spaces for employees.
- (5) Retail and Office Uses: One (1) off-street parking space for each hundred (100) square feet of gross floor area.
- (6) Healthcare Institutions: One (1) off-street parking space for every two hundred (200) square feet of floor space.

- (7) Home Occupation: Three (3) off-street parking spaces in addition to the requirement for dwelling.
- (8) Agricultural Drive-In Stand: One (1) off-street parking space for each one hundred (100) square feet of area occupied by the stand, but in no case fewer than three (3) such spaces.
- (9) Loading and Unloading Space: Off-street loading and unloading space, sufficient to accommodate the maximum demand generated by the use of the lot, shall be provided on any lot on which a building for commercial use is hereafter erected or substantially altered. All off-street loading and unloading spaces shall have an all-weather surface to provide safe and convenient access and use during all seasons.

11-5. Nonconforming Parking and Loading

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

11-6. Design Standards for Off-Street Parking

- A. All parking facilities provided under this Article shall be located off the public right-of-way and shall contain an area of at least one hundred eighty (180) square feet per automobile parking space exclusive of access ways, aisles and maneuvering space. Each space shall have an all-weather surface, which may consist of gravel, crushed stone, concrete or black top.
- B. Driveways and parking areas for nonresidential uses except home occupations shall include, within the property lines, turning areas so constructed and surfaced that a vehicle entering or leaving the property is not required to back onto the street.
- C. All illumination on parking lots shall be shielded so as not to produce excessive illumination upon abutting properties.
- D. The size of standard perpendicular off-street parking spaces shall be a minimum of nine feet wide by twenty (20) feet long.
- E. Where parking spaces abut sidewalks, landscaped areas, lighting fixtures or fences, appropriate car stops shall be installed to prevent encroachment on or damage to such features.
- F. All off-street parking areas of more than twenty (20) spaces shall provide a snow-storage area independent of required parking and loading areas.
- G. No driveway to an off-street parking area shall be located closer than fifty (50) feet to the intersection of any two (2) streets or within twenty (20) feet of any side lot line, provided that sufficient distance will always remain for all required radii for said driveway. The distances from the driveway to the intersection shall be measured by extending the curb

line of the intersecting street until it intersects the curb line, extending if necessary of the driveway in question.

- H. Driveways shall be designed to provide for the safe and efficient movement of traffic between the roadway and the site, to eliminate the potential for stacking of vehicles along the public right-of-way and to minimize interference with pedestrians and vehicles using the site and the public right-of-way.
- I. Curb cuts for ingress and egress onto existing roadways shall be a maximum of twenty (20) feet for residential uses and thirty-five (35) feet for non-residential uses. The location and distance between curb cuts and to intersections shall be in accordance with New York State Department of Transportation design standards.
- J. The stormwater runoff from all driveways shall not discharge into the public right-of-way. The peak rate of runoff at the street shall not increase from the predeveloped rate unless an increase is authorized by the Town. The construction, size and location of culverts intended to catch and divert stormwater runoff from all driveways shall be reviewed and approved by the Town Highway Department.

11-7. Design Standards for Loading Facilities

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

ARTICLE XII
Sign Regulations

12-1. General Sign Regulations

- A. Except where they are expressly permitted within this Article or this Code, all signs, billboards or other advertising devices are specifically prohibited in the Town.
- B. No sign shall have visible moving or moveable parts or flashing, animated or intermittent illumination, or otherwise negatively impact adjacent properties.
- C. One (1) sign no larger than six (6) square feet in size shall be permitted for each street frontage of a lot used for a retail, commercial or similar business-related enterprise.
- D. Two-sided signs shall be considered one (1) sign for the purposes of this Code.
- E. Signs may be free standing or attached to a building. No sign shall project more than twelve (12) inches out from the wall to which it is attached or extend above the height limit permitted in any district.
- F. All signs permitted under this Code shall be located a minimum of ten (10) feet from all lot lines.

12-2. Permitted Signs

- A. Signs denoting membership in agricultural associations, cooperatives or indicating specialization in a particular breed of cattle, hogs etc., or in particular hybrids or strains of plants. Such signs may also include the name of the farm of the owner.
- B. Trespassing signs, signs indicating the private nature of a road, driveway, or premises, signs controlling fishing or hunting on the premises provided that the area of any such sign shall not exceed four (4) square feet per side.
- C. Temporary signs announcing a campaign, drive or event of a civic, philanthropic, education or religious organization. Such signs shall not exceed ten (10) square feet per side in area and shall be removed within seven (7) days upon completion of the campaign, drive or event. If the sign is not removed within seven (7) days, the sign will be removed by the Town on the costs incurred will be paid by the owner of the sign.
- D. Signs announcing home occupations, provided the sign is no more than 28 inches in length and height.
- E. In areas where a variance has been granted by the Zoning Board of Appeals under the conditions set forth in this Code.
- F. Temporary signs. Temporary signs shall not contain lights and moving parts and shall be permitted as follows:

- (1) Real estate (“For Sale” or “For Rent”) signs, which shall not remain longer than thirty days after the sale or rental;
- (2) Construction signs advertising the contractor completing certain construction or activity upon the premises, which shall not remain longer than thirty days after the construction or activity is complete;
- (3) Political signs, which shall not to be erected more than forty-five days prior to Election Day, and remain not longer than ten days after Election Day;
- (4) Non-profit event signs, which shall not be erected more than twenty-one days before the event being advertised, and which shall not remain longer than five days after completion of the event.
- (5) In-season, off-site agricultural direction signs; and
- (6) Signs required by County, State or Federal laws.

12-3. Permit Requirement for Signs

All permanent signs, except official traffic signs and other official governmental signs, regardless of size, shall require the issuance of a building permit before erection or replacement.

ARTICLE XIII
Telecommunications Facilities

13-1. Intent

The intent of these regulations is to promote the health, safety and general welfare of the residents of the Town of Spafford. Specifically, these regulations are intended to:

- A. Provide standards for the safe provision of telecommunications consistent with applicable federal and state regulations.
- B. Minimize the number of telecommunications towers in the community by encouraging shared use of existing and future towers and the use of existing tall buildings and other high structures.
- C. Minimize adverse visual effects from telecommunications facilities by requiring careful siting, visual assessment and appropriate screening.

13-2. Applicability

- A. No telecommunications facility shall be used, erected, moved, reconstructed, changed or altered, except after approval of a special use permit by the Zoning Board of Appeals. No existing structures shall be modified to serve as a telecommunications facility unless in conformity with these regulations. All telecommunications facilities involving the construction or relocation of a telecommunications tower shall also require site plan approval by the Town Board in accordance with Article XIV.
- B. Telecommunications facilities shall be permitted only in the RA District in accordance with these regulations.
- C. Exemption to these regulations are limited to:
 - (1) New uses which are accessory to residential uses, such as satellite dishes and television antenna(e).
 - (2) Amateur radio operators as licensed by the federal communications commission (FCC).
 - (3) Lawful or approved uses existing prior to the effective date of these regulations.
- D. Where these regulations conflict with other laws and regulations of the Town of Spafford, the more restrictive shall apply, except for tower height restrictions, which are governed by these special use standards.

13-3. General Requirements

Each application for a proposed facility shall be accompanied by a State Environmental Quality Review (SEQR) long Environmental Assessment Form (EAF). If the location is on a parcel

identified in the Lakeshore District, any potential impacts to views to the lake must be included in the assessment.

- A. No application will be considered for either a new or modified telecommunication facility unless the facility meets the following criteria:
- (1) Is necessary to meet current or reasonable expected demands for services.
 - (2) Conforms with all federal and state laws and all applicable rules or regulations promulgated by the Federal Communications Commission (the FCC), Federal Aviation Commission (the FAA), or any other federal agencies having jurisdiction.
 - (3) Is considered a public utility in the State of New York.
 - (4) Is sited, designed and constructed in a manner that minimizes both visual impacts to the extent practical and adverse impacts upon migratory birds and other wildlife.
 - (5) Complies with all other requirements of this Law, unless expressly superseded herein.
 - (6) Is the most appropriate site among those available within the technically feasible area for the location of a telecommunications facility.
 - (7) When including the construction of a tower, such tower is designed to accommodate future shared use by at least two (2) other telecommunications service providers. Any subsequent locations of telecommunications equipment by other service providers on specifically designated for shared use shall not require a new or modified special use permit if there would be no increase in the height of the tower. However, any additional equipment will require a special use permit review.

13-4. Co-Location

The shared use of existing telecommunications facilities or other structures shall be preferred to the constructions of new towers. Any application, renewal or modification thereof shall include proof that reasonable efforts have been made to collocate within an existing structure. The application shall include an adequate inventory report specifying existing telecommunications facility sites. The inventory report shall contain and evaluation of opportunities for shared use as an alternative to the proposed location.

- A. The applicant must demonstrate that the proposed telecommunications facility cannot be accommodated on existing telecommunications facility sites in the inventory due to one or more of the following reasons:

- (1) The planned equipment would exceed the structural capacity of existing and approved telecommunications facilities or their structure, considering existing and reasonable anticipated future use for those facilities and structures.
- (2) The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonable prevented.
- (3) Existing or approved telecommunications facilities or other structures do not have space and cannot be modified to provide space on which proposed equipment can be placed so it can function effectively and reasonable.
- (4) Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities and structures.
- (5) The owner of the existing telecommunications facility or other structure refused to allow such co-location.

13-5. Dimensional Standards

- A. A fall zone around any tower constructed as part of a telecommunications facility must have a radius at least equal to the height of the tower and any attached antennas. The entire fall zone may not include public roads and must be located on the property either owned or leased by the applicant or for which the application has obtained an easement, and may not, except as set forth below, contain any structure other than those associated with the telecommunications facility.
- B. All telecommunications facilities shall comply with the setback, frontage, minimum lot size, requirements for the RA District. To the extent there is a conflict, the more restrictive provision will govern. The size of the leased or owned lot shall be, at a minimum, sufficiently large to include the entire fall zone.
- C. The front, side, and rear yard requirements in which a telecommunications facility is erected shall apply not only to the tower, but also to all tower parts including guy wires and anchors and to any accessory buildings.

13-6. Lighting and Marking

Towers shall not be artificially lighted and marked beyond the requirements of the FAA. An applicant may be permitted to add FAA-style lighting and marking, even if not required by FAA, if in the judgment of the Zoning Board of Appeals, such a requirement would be of direct benefit to public safety and would not unduly adversely affect residents of any surrounding property.

13-7. Appearance and Buffering

- A. The use of any portion of a telecommunication facility for signs, promotional or advertising purposes, including but not limited to company name, phone numbers, banners, streamers, and balloons is prohibited.

- B. The facility shall have the least practical visual effect on the environment as determined by the Zoning Board of Appeals. Any tower that is not subject to FAA marking as set forth above shall otherwise:
- (1) Have a galvanized finish, or shall be painted gray above the surrounding tree line and gray or green below the tree line, as deemed appropriate by the Zoning Board of Appeals, or be disguised or camouflaged to blend in with the surroundings, to the extent that such alteration does not impair the ability of the facility to perform its designed function.
 - (2) Accessory structures shall maximize the use of buildings materials, colors, and textures designed to blend in with normal surroundings.
 - (3) Equipment or vehicles not used in direct support, renovations, additions or repair of any telecommunication facility shall not be stored or parked on the Facility site.
 - (4) Existing on-site vegetation shall be preserved to the maximum extent possible.
 - (5) Screening: Deciduous or evergreen tree planting shall be required to screen portions of the tower from nearby residential property as well as from public sites known to include important views or vistas. Where the site abuts residential or public or private property, including streets, at least one row of native evergreen shrubs or trees forming a continuous hedge at least ten (10) feet in height at a time of planting to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include height of berm.

13-8. Access and Parking

- A. Access ways shall make maximum use of existing public or private roads to the extent practicable. New access ways constructed solely for Telecommunication Facilities must be at least twenty (20), but no more than sixty (60) feet wide and closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
- B. Parking areas shall be sufficient to accommodate the usual number of service vehicles expected on the premises at any one time. Space off of public highways shall be provided (not necessarily in parking areas) to accommodate the greatest number of service vehicles expected on the premises, at any one time.
- C. Driveways or parking areas shall provide adequate interior turn-around, such that service vehicles will not have to back out into a public thoroughfare.

13-9. Security

- A. Towers, anchor points of guyed towers, and accessory structures shall be each surrounded by fencing at eight (8) feet in height, the top foot of which may, at the discretion of the Zoning Board of Appeals in the deference to the character of the neighborhood, be

comprised of the three (3) strands of barbed wire to discourage unauthorized access to the site. The Zoning Board of Appeals may waive the requirement of fencing if, in its discretion, it determines that other forms of security are adequate, or that, by reason of location or occupancy, security will not be significantly compromised by the omission, or reduction in size, of the otherwise required fencing.

- B. Motion-activated or staff-activated security fencing lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off the site. Such lighting should only occur when the area within the fenced perimeters has been entered.
- C. There shall be no permanent climbing pegs within fifteen (15) feet of the ground of any tower.
- D. A locked gate at the junctions of the access way and a public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such gate must not protrude into the public right-of-way.
- E. There shall be a security alarm system, which is linked to either a local caretaker, or a local police agency.

13-10. Engineering and Maintenance

- A. All plans for telecommunications facilities must bear the seal of a professional engineer licensed to practice on the State of New York. Every facility shall be built, operated and maintained to acceptable industry standards, including but not limited to the most recent, applicable standards of the Institute of Electric and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI).
- B. Every Facility shall be inspected at least every fifth year for structural integrity by a New York State licensed engineer. A copy of the inspection report shall be submitted by the owner/operator to the Zoning Board of Appeals and Code Enforcement Officer. Any unsafe condition revealed by such report shall be corrected within ten (10) days of notification of same to the record of the landowner on which the facility is constructed. The time period for correction may, on application of the landowner or the owner of the facility, be extended by the Zoning Board of Appeals if it is impracticable to complete the correction within said ten (10) days and if there is no imminent danger to life, limb or other person's property. If the unsafe condition is not corrected within the applicable time period, or if the required inspection is not provided to the Town, the special approval for construction of the facility may, after a hearing by the Zoning Board of Appeals on at least ten (10) days prior notice to the landowner of record given by certified mail, return receipt requested, or other equally effective manner of providing notice, be revoked by such Board. Revocation may occur only if the Board finds either that the required inspection has not been provided or that there is an unsafe condition that poses a risk to bodily injury or significant property damage. Upon such revocation, the facility shall be removed or dismantled to the point of removing all unsafe conditions.

- C. A safety analysis by a qualified professional must accompany any special use permit or special use permit application, renewal thereof or modification, for the purpose of certifying that general public electromagnetic exposure does not exceed standards set by the FCC or any permit granted by the FCC.
- D. The municipality, at the expense of the applicant, may retain its own consultant to examine the application and related documentation and make recommendations as to whether the criteria for granting the special approval have been met, including whether the applicant's conclusions regarding need, co-location, safety analysis, visual analysis, and structural inspection, are valid and supported by generally accepted and reliable engineering and technical data and standards.

13-11. Removal

- A. Prior to the issuance of a special use permit, the applicant shall submit an agreement to remove, within ninety (90) days, all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower(s) dedicated solely for use within a telecommunications facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than six (6) consecutive months. Upon removal of said facility, the land shall be restored to its previous condition, including but not limited to the seeding of exposed lands.
- B. A building permit shall not be issued until such time as the applicant provides a financial security bond for removal of the telecommunications facility and property restoration, with the municipality as the assignee, in an amount approved by the Zoning Board of Appeals, but not less than forty thousand dollars (\$40,000).
- C. At times of modification or removal, the Zoning Board of Appeals may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the telecommunications facility and property restoration.

ARTICLE XIV
Site Plan Review and Approval

14-1. Intent

Site Plan Review is intended to determine compliance with the objectives of this Law where inappropriate development may cause a conflict between uses in the same or adjoining zoning district by creating conditions which could adversely affect the public health, safety or general welfare.

14-2. Applicability

Prior to the issuance of special use permit, variance or other discretionary approval required from the Town Board or Zoning Board of Appeals for construction, alteration or change of use in any district, except for a one-family or two-family dwelling and related accessory uses, or a nonintensive agricultural operation permitted by right, the Code Enforcement Officer shall require the preparation of a site plan. Approvals shall be in accordance with the standards and procedures set forth in this Article.

14-3. Sketch Plan Conference

A. Applicants shall meet with the Code Enforcement Officer and/or the Town Board to review the basic site design concept and determine the information to be required on the preliminary site plan. The purpose of the sketch plan conference is to discuss with the applicant the project's conformity with the Code, to determine whether the activity is subject to the performance standards set forth in Section 7-16, and to advise the applicant of other issues or concerns. The sketch plan conference provides an opportunity to indicate whether the proposal, in its major features, is acceptable or whether it should be modified before expenditures for more detail plans are made.

B. Required Data

Information to be included on the sketch plan is as follows:

- (1) An area map showing the parcel under consideration for Site Plan Review and all parcels, structures, subdivisions, streets, driveways, easements and permanent open space within two hundred (200) feet of the boundaries thereof or at the discretion of the Code Enforcement Officer.
- (2) A map of site topography at no more than five-foot contour intervals or at the discretion of the Code Enforcement Officer shall be provided. If general site grades exceed five percent (5%) or if portions of the site have susceptibility to erosion, flooding or ponding, a soils overlay and topographic map showing contour intervals of not more than two (2) feet of elevation should also be provided.
- (3) General identification of all existing natural features and utilities on the site and in the area.

- (4) The location of all existing and proposed structures on the site and designated uses for each.
- (5) Identification of existing zoning classification(s) of the property and all adjacent properties and any restrictions on land use of the site.

14-4. Preliminary Site Plan Application

A. Application for Preliminary Site Plan Approval

An application for preliminary site plan approval shall be made in writing to the Code Enforcement Officer and shall be accompanied by information drawn from the following checklist, as determined necessary by the Code Enforcement Officer at the sketch plan conference. All site plan information and building designs shall be prepared by a licensed architect or engineer.

B. Preliminary Site Plan Checklist

Additional design standards and directions regarding the items to be shown on specific plan sheets may be found in the administrative checklist available from the Code Enforcement Officer. The preliminary site plan shall include:

- (1) Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
- (2) North arrow, graphic scale and date.
- (3) Boundaries of the property, plotted to scale.
- (4) The location of existing property lines, easements, structures, streets, driveways and natural features within two hundred (200) feet of the proposed site or at the discretion of the Town Board. Natural features subject to other state or federal regulations which may restrict development.
- (5) Grading and drainage plan, showing existing and proposed contours. The drainage plan shall also clearly explain the methodology used to project stormwater quantities and the resultant peak flow conditions.
- (6) Location, proposed use, hours of operation and height of all buildings. Summary of the amount of square footage devoted to each use requiring off-street parking or loading.
- (7) Number, location, design and construction materials of all parking and loading areas, showing access and egress. Location of reserved parking areas as required by the off-street parking regulations of Article XI, Section 11-4.
- (8) Provision for pedestrian access.

- (9) Size, type, location and screening of all facilities used for recycling and disposal of solid waste.
- (10) Location, dimensions and vehicle capacity of drive-in facilities and related queuing lanes.
- (11) Building elevation(s) showing building massing, window and door spacing and treatments and other architectural features; and indication of building materials suitable to evaluate architectural compatibility.
- (12) Location, purpose and holder of all proposed easements or dedications for utilities, recreation, conservation or other purpose.
- (13) Location, size, screening and type of material for any proposed outdoor storage.
- (14) Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
- (15) Description of the type and quantity of sewage expected, the method of sewage disposal and the location, design and construction materials of such facilities.
- (16) Description of the type and quantity of water supply needed, the method of securing water supply, and the location, design and construction materials of such facilities.
- (17) Location of fire and other emergency zones, including the location of fire hydrants.
- (18) Location, design and construction material of all energy-distribution facilities, including electrical, gas and wind power and solar energy and other public utility facilities, such as cable or phone service.
- (19) Location, size, design and construction materials of all proposed signs.
- (20) Location of proposed buffer areas, including existing vegetative cover.
- (21) Location, type, height, brightness and control of outdoor lighting facilities.
- (22) A table summarizing each building footprint, total size in square feet and number of stories; the number of dwelling units and the amount of square feet devoted to each use type; size, in square feet or acres, of access, parking and circulation areas and the number of loading, queuing and parking spaces; size in square feet of landscaped and natural open space; and size in square feet and text of all signs.
- (23) A landscaping plan and planting schedule.

- (24) Other elements integral to the proposed development as considered necessary by the Town Board, to include showing railroads or any other type of transportation facilities not specified.
- (25) All forms and information pursuant to New York State Environmental Quality Review Act (SEQRA).
- (26) An agricultural data statement if the proposed use is located on or within five hundred (500) feet of a farm operation in a county agricultural district.
- (27) For all developments disturbing more than one (1) acre, New York State Department of Environmental Conservation (NYSDEC) requires that Municipalities receive a copy of the Storm Water Pollution Prevention Plan (SWPPP) prior to plan approval. The owner is required to comply with the NYSDEC's "SPDES General Permit for Storm Water Discharge from Construction Activity" Permit # G-P-02-01.
- (28) The reviewing board shall look and take into consideration any other special or unique environmental circumstances or conditions that may exist on the site, including, but not limited to, unique animal habitats, water features, woodlots, hedgerows, prime agricultural soils, soil erosion possibilities, and steep slopes.

C. Required Fee

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

14-5. Town Board Review of Preliminary Site Plan

The Town Board's review of a preliminary site plan shall include, as appropriate, but not be limited to, the following:

A. General considerations as to:

- (1) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls for parking, loading and drive-in facilities.
- (2) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience. In general, sidewalks shall be required along all dedicated roads on lots within 1,000 feet of a school, park or residential concentration.
- (3) Location, arrangement, appearance and sufficiency of off-street parking and loading.
- (4) Location, arrangement, size, design and general architectural and site compatibility of buildings, lighting, signs and landscaping.

- (5) Adequacy of stormwater calculation methodology and stormwater and drainage facilities to eliminate off-site runoff and maintain water quality.
- (6) Adequacy of water supply and sewage disposal facilities.
- (7) Size, location, arrangement and use of required open space and adequacy of such open space to preserve scenic views and other natural features, to provide wildlife corridors and habitats, to provide suitable screening and buffering; and to provide required recreation areas.
- (8) Suitability of proposed hours of operation.
- (9) Protection of adjacent or neighboring properties against noise, glare, unsightliness or other similar nuisances.
- (10) Adequacy of community services, including fire, ambulance and police protection, and on-site provisions for emergency services, including fire lanes and other emergency zones, fire hydrants and water pressure.
- (11) Adequacy and unobtrusiveness of public utility distribution facilities, including those for gas, electricity, cable television and phone service. In general, all such utility distribution facilities shall be required to be located underground.
- (12) Making provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary thereof.
- (13) Conformance with density, lot size, height, yard and lot coverage and all other requirements of district regulations.

B. Applicant to Attend Planning Board Meeting

Applicant and/or duly authorized representative shall attend the meeting of the Town Board where the plat is reviewed.

C. Site plans shall also conform to the performance standards of Section 7-16.

D. Consultation with Other Planning Agencies

The Town Board may consult with the Planning Board, Code Enforcement Officer, Fire Commissioners and other appropriate local and county officials and departments and its designated private consultants, in addition to representatives of federal and state agencies, including but not limited to the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.

E. Public Hearing

The Town Board may conduct a public hearing on the preliminary site plan. If a public hearing is considered desirable by a majority of the members of the Town Board, such public hearing

shall be conducted within sixty-two (62) days of the receipt of the application for preliminary site plan approval and shall be advertised in a newspaper of general circulation in the Town of Spafford at least ten (10), but not more than thirty (30) days before the public hearing.

14-6. Town Board Action on Preliminary Site Plan

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

14-7. Final Site Plan Approval Procedure

- A. After receiving approval, with or without modifications, from the Town Board on a preliminary site plan, the applicant shall submit a final detailed site plan to the Town Board for approval. If more than six (6) months has elapsed since the time of the Town Board's action on the preliminary site plan and if the Town Board finds that conditions have changed significantly in the interim, the Town Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review. The Town Board may also require a new public hearing. The final site plan shall conform substantially to the approved preliminary site plan. It should incorporate any modifications that may have been recommended by the Town Board in its preliminary review. All such compliance shall be clearly indicated by the applicant on the appropriate submission.
- B. The following additional information shall accompany an application for final site plan approval.
 - (1) Record of application for and approval status of all necessary permits from local, state and county officials.
 - (2) An estimated project construction schedule.
 - (3) A legal description of all areas proposed for municipal dedication.
 - (4) A conservation easement or other recordable instrument executed by the owner for any permanent open spaces created and whether such open space is the result of Site Plan Review.

- (5) If no building permit is issued within one (1) calendar year from the date of final site plan approval, the final site plan approval shall become null and void.

14-8. Referral to County Planning Board

Prior to taking action on the final site plan, the Town Board shall refer the plan to the Onondaga County Planning Board for advisory review and a report in accordance with Section 239-m of General Municipal Law.

14-9. Town Board Action on Final Site Plan

- A. Within sixty-two (62) days of receipt of the application for final site plan approval, the Town Board shall notify the Code Enforcement Officer, in writing, of its decision. The Town Board shall file its decision with the Town Clerk within five (5) days of the final Town Board decision.
- B. Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due and letter of credit if required, the Town Board shall endorse its approval on a copy of the final site plan. A copy of the approved final site plan shall be filed with the Code Enforcement Officer and may be provided to the applicant.
- C. Upon disapproval of a final site plan, the Town Board shall so inform the Code Enforcement Officer, and the Code Enforcement Officer shall deny a building permit to the applicant. The Town Board shall also notify the applicant in writing of its decision and its reasons for disapproval. The Town Board shall file its decision with the Town Clerk within five (5) days of the final Town Board decision.

14-10. Reimbursable Costs

Costs incurred by any Town agency for consultation fees, inspection fees, or any other extraordinary expense in connection with the review of a proposed site plan or inspection of required improvements shall be charged to the applicant in accordance with Section 7-17. Estimated review fees shall be deposited into an escrow account when making application for preliminary site plan approval.

14-11. Letter of Credit

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

14-12. Inspection of Improvements

The Code Enforcement Officer shall be responsible for the overall inspection of site improvements. The applicant shall be responsible for advance notice for inspection coordination

with officials and agencies, as appropriate. The Code Enforcement Officer may retain the services of a qualified private consultant to assist with inspection of site improvement.

14-13. Integration of Procedures

Whenever the particular circumstances of a proposed development require compliance with either the special use permit procedure pursuant to Article VIII of this Code, or the Town's subdivision regulations, the Town Board shall attempt to integrate, as appropriate, Site Plan Review as required by this section with the procedural and submission requirements for such other compliance.

ARTICLE XV
Road Preservation and Safety

(added by Local Law 2011-2 adopted 5/12/11)

15-1. Authority.

This article is enacted pursuant to the authority of the New York Municipal Home Rule Law, the general police power of the Town of Spafford Town Board to protect the public and promote public safety of its residents, and New York Vehicle and Traffic Law § 385(15)(b), which authorizes a town to issue permits to operate or move vehicles, the weights or dimensions of which exceed the limitations provided in said § 385, on Town roads and Town highways.

15-2. Purpose.

The purpose of this chapter is to maintain the safety and general welfare of Town of Spafford residents by regulating commercial activities that have the potential to adversely affect road right-of-ways and the safety of the public. Commercial endeavors, such as mining and natural gas drilling, have economic benefits. However, well maintained roads are important to the economic well being and community character of the Town. Accidents involving oversize or overweight vehicles present special risks, and advance notice of potentially dangerous cargo being transported over Town roads in overweight or oversize vehicles can enhance the safety of accident response. This chapter is not intended to regulate commercial activities, but rather to protect the public, and to protect public roads and road rights-of-way from damage.

15-3. Permit-Issuing Authority.

The Town Supervisor is hereby designated as the authority to receive applications for permits to operate or move a vehicle, or a combination of connected vehicles [e.g., tractor and trailer(s)], the weights or dimensions of which exceed the limitations provided in Vehicle and Traffic Law § 385, on Town roads or highways (hereinafter the "permit"), and to receive notices required by this chapter. Such permit can only be issued to applicants who are holders of valid New York State Hauling or Divisible Load Permits issued pursuant to Subpart 154-2 of Title 17 (Transportation) of the New York Code of Rules and Regulations. A valid permit must be issued prior to anyone operating such heavy vehicles in the Town.

15-4. Permit Application, Notice and Fees.

- A. The Town Supervisor is hereby authorized to promulgate form(s) for an application requesting a permit, the renewal thereof, and the permit to be issued upon review and approval of applications. Permits shall be issued for a period of one year and may be renewed upon review and approval of a renewal application.
- B. A permit shall be issued at least 10 business days in advance of the first operation of oversize or overweight vehicles on Town roads. In addition to any other information required on the permit application, the applicant shall provide, either on or attached to the permit application:

- (1) the identity of the Town roads to be utilized and routing;
 - (2) the estimated starting and ending dates for use of Town roads;
 - (3) the estimated number of vehicles to be operated under the permit;
 - (4) a complete description of the loads to be carried by each oversize or overweight vehicles, including, without limitation, the size and weight of each loaded vehicle and the chemical compound(content) of any liquid cargo. In the event any hazardous chemicals are to be transported, the permit may require that the Town be provided with a separate advance notice of five business days for each oversize or overweight vehicle carrying such cargo. Hazardous chemicals, for the purpose of this subsection, shall be as defined in 29 CFR 1910.1200 (OSHA Hazardous Communication Standard);
 - (5) Copies of valid New York State Vehicle Registrations for Each Vehicle; and
 - (6) Copies of valid New York State Special Hauling Permits, if any, for each vehicle.
- C. The Town Supervisor, with the assistance of the Town Highway Superintendent, and any other designee, if necessary, will produce an evaluation of the Town roads named in the permit application to be used as a baseline for determining damage.
- D. The Town may impose such fees as are permitted under Vehicle and Traffic Law § 385. Fees shall be paid by the applicant at the time of application.

15-5. Damage to Town Roads.

- A. With the exception of normal wear and tear, the permittee is responsible for all damage done to the roadways, bridges, ditches, curbs, sidewalks or other improvements and to public utilities in the right-of-way as determined by the Town Supervisor. There shall be a presumption that the operation of a vehicle or combination of vehicles in excess of the maximum weight limits set by Vehicle and Traffic Law § 385 is the proximate cause of any such roadway and related damage, whether or not a permit to exceed such weight limits was issued.
- B. Upon due notice being given to a permittee and at the Town's option, the Town may request that the permittee repair all damages, or the Town may arrange the necessary repairs and charge the vehicle owner, lessees, operators, and permittee for all labor and materials at the prevailing rates. The highway shall be restored and maintained for a period of one year from the date of any repairs at the expense of the permittee responsible for the damage.

15-6. Insurance.

- A. As a prerequisite for issuance of a permit, the permittee shall present to the Town certificates of insurance evidencing the acquisition of liability insurance coverage naming the Town as an additional insured on a noncontributory basis with the minimum limits of

coverage for bodily injury equal to \$1,000,000 for each person injured, \$3,000,000 for aggregate bodily injury resulting from each occurrence, and \$500,000 for property damage.

- B. Said insurance shall be maintained throughout the term of the permit and the aforementioned certificates shall provide for 30 days written notice to the Town prior to cancellation of coverage.
- C. All persons performing work under this permit are to be covered by workmen's compensation insurance and disability benefits insurance as required by New York law, and certificates evidencing the existence of such coverage shall be provided to the Town.

15-7. Maintenance Bond.

As a prerequisite for issuance of a permit, the permittee shall present to the Town a maintenance bond in the amount of \$100,000 and a bank letter of credit in the amount of \$10,000 in favor of the Town guaranteeing compliance with the provisions of the permit. The maintenance bond shall be maintained by the permittee for the duration of the permit period. At such time, if ever, that said letter of credit is expended, the permittee shall replace the same within five days' written notice of the Town, failing which the permit shall be subject to revocation.

15-8. Indemnity and Save Harmless.

The permittee, to the fullest extent permitted by law, will be required to agree to indemnify, defend, save and hold harmless the Town of Spafford and all of its departments, bureaus, divisions, boards, officers and employees from and against any and all claims, costs, damages, expenses, charges, risks, losses, lawsuits, judgments, executions, penalties, fines, assessments or any other liability of any type arising out of, occurring in connection with or resulting from any and all activity to be performed by the permittee pursuant to any permit issued under this chapter.

15-9. Stop-Work Orders.

The Code Enforcement Officer shall have the right and authority to issue stop-work orders to those operating in violation of the terms of the permit, or contrary to the permittee's application or conditions upon which its permit was issued.

15-10. Revocation of Permit.

Upon the violation of any provisions of the permit, the Town may suspend any permit issued hereunder for no more than 30 days. The Town Board shall have the authority to revoke any permit on notice to the permittee following a public hearing held no sooner than five days following publication of the notice of such hearing, at which the permittee shall have the right to appear and be heard.

15-11. Special Conditions.

- A. The permit shall not be assigned or transferred without the written consent of the Town Supervisor.
- B. The permittee shall notify the Town at least one week in advance of the date when it intends to begin the activity authorized by the permit, and shall notify the Town promptly of its completion. Upon notice of completion the Town roads designated in the permit will be assessed for damage.
- C. The permit shall remain valid only for so long as the permittee continues to hold a valid New York State Hauling or Divisible Load Permit issued pursuant to Subpart 154-2 of Title 17 (Transportation) of the New York Code of Rules and Regulations, and for so long as the permittee complies with all conditions of the Town permit.
- D. The permit shall not authorize the holder to exceed the maximum gross weight limit authorized for crossing an R-posted bridge.
- E. The following vehicles are deemed critical to providing public services and preserving and protecting the health, safety, and welfare of the residents of the Town, and are therefore exempt from the permitting process:
 - (1) Maintenance, repair and service vehicles owned and operated by the Town of Spafford or municipal corporations located in the County of Onondaga and on official County or municipal business;
 - (2) Maintenance, repair and service vehicles owned and operated by a utility company or authority and on official utility business; and
 - (3) Emergency vehicles and vehicles owned by New York or municipal corporations of New York.
- F. Nothing contained in this Chapter shall be deemed to limit the right to farm as set forth in Article 25-AA of the New York State Agricultural and Markets Law.

15-12. Violations and Penalties.

Any person who shall operate or move a vehicle or a combination of vehicles, the weights or dimensions of which exceed the limitations provided in Vehicle and Traffic Law § 385, on Town roads or highways without obtaining the permit required hereunder, or who shall refuse to make the repairs or pay the charges referenced in Subsection 15-5 herein, shall be guilty of a Class A misdemeanor, which shall be punishable by a fine not exceeding \$1,000 for each day of such violation.

15-13. Severability.

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Spafford hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

APPENDIX

Residential – Agricultural District Bulk Use Table

Permitted Uses	Min. Lot Size (acres)	Min. Lot Width (ft.)	Min. Setback Requirements			Max. Allowable Coverage (%)	Max. Bldg. Height (ft.)	Site Plan Review Required	
			Front (ft.)	Sides (ft.)	Rear (ft.)				
Farming Operation	7	100	40	25	40	15	35		
One Family Dwelling	2	100	40	25	40	15	35		
Two Family Dwelling	2	100	40	25	40	15	35		
Accessory Structures and Buildings	n/a	n/a	n/a	n/a	n/a	n/a	n/a		
Gazebo or Cabana (100 sq. ft. max.)	n/a	n/a	n/a	n/a	n/a	n/a	n/a		
Shed	n/a	n/a	n/a	n/a	n/a	5	10		
Keeping/Raising of Livestock	See Animal Unit Table								
Uses Requiring a Special Permit									
Home Occupation	n/a	n/a	n/a	n/a	n/a	n/a	n/a		
Restaurant	2	100	40	25	40	40	35	Y	
Bed and Breakfast	2	100	40	25	40	15	35	Y	
Agricultural Based Business*	7	100	40	25	40	15	35	Y	
Riding Academy*	7	100	40	25	40	15	35		
Farm Stands* #	n/a	n/a	n/a	n/a	n/a	n/a	n/a		
Timber Harvesting*	7	100	40	25	40	15	35		
Automobile and General Repair	2	100	40	25	40	15	35	Y	
Cemetery	7	100	40	25	40	15	35	Y	
Club/Lodge	2	100	40	25	40	15	35	Y	
Ponds	n/a	100	40	25	40	**	n/a		
Commercial Dog Kennel	7	100	40	25	40	15	35		
Convenience Store	2	100	40	25	40	40	35	Y	
Library	2	100	40	25	40	40	35	Y	
School	7	100	40	25	40	25	35	Y	
Child Care Facility/preschool	2	100	40	25	40	40	35	Y	
Small Retail Store	5	100	40	25	40	25	35	Y	
Commercial Garage	7	100	40	25	40	40	35	Y	
Gasoline Station	2	100	40	25	40	40	35	Y	
Health Care Institution	2	100	40	25	40	40	35	Y	
Professional Office	2	100	40	25	40	40	35	Y	
Wind Energy Conversion System	n/a	See Section 8-13						60	
Places of Worship	2	100	40	25	40	40	35	Y	
Telecommunications Facility/Tower	n/a	n/a	n/a	n/a	n/a	n/a	n/a	Y	
Adult Oriented Business	2	100	40	25	40	15	35	Y	
Emergency Dwelling	2	100	40	25	40	15	35		
Mining	7	100	40	25	40	15	35	Y	
Single Wide Manufactured Home	2	100	40	25	40	15	35		
Outdoor Wood Boiler	See Section 8-14								

A lot may be improved with not more than one (1) principal building or structure together with accessory and secondary structures as may be necessary and incidental thereto, and as permitted under the Zoning Code.

- * A special permit shall not be required if the lot on which the use will occur is located entirely within a state certified agricultural district.
- # Total floor area shall not exceed 150 square feet for non-farm parcels and 400 square feet for farm parcels.
- ** The aerial coverage for a pond shall not exceed 15% of the total lot size.

Skaneateles Lake District Bulk Use Table

Permitted Uses	Min. Lot Size (sq. ft.)	Min. Lot Width (ft.)	Min. Setback Requirements			Max. Allowable Coverage (%)	Max. Bldg. Height (ft.)	Site Plan Review Required
			Front (ft.)	Sides (ft.)	Lake (ft.) / Rear (ft.)			
One family	15000	100	50	10	50	25	35	
Two family	15000	100	50	10	50	25	35	
Boathouse	45,000	300	30	75	0	1	15	
Accessory Structures and Buildings	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
Shed	n/a	n/a	30	n/a	n/a	5	10	
Park	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
Deck or patio contiguous to house	n/a	n/a	n/a	n/a	n/a	5	n/a	
Seawall/Shoreline deck	n/a	n/a	30	0	0	5	n/a	
Gazebo or Cabana (max 100 ft2)	n/a	n/a	30	n/a	0	5	10	
Garage (for lots separated from lakefront lots)	5000	50	5	n/a	(Rear) 10	15	25	
Pool	n/a	n/a	30	20	n/a	5	n/a	
Uses Requiring a Special Permit								
Bed and Breakfast	15000	100	50	10	50	25	35	Y
Club	15000	100	50	10	50	25	35	Y
Restaurant	15000	100	50	10	50	25	35	Y
Home Occupation	15000	100	50	10	50	25	35	

A lot may be improved with not more than one (1) principal building or structure together with accessory and secondary structures as may be necessary and incidental thereto, and as permitted under the Zoning Code.

With the exception of a garage on a lot separated from a lakefront lot, the maximum allowable coverage for each accessory building or structure, including but not limited to sheds, decks, patios, gazebos, cabanas and pools, shall not exceed 5% of the total lot area. The maximum allowable coverage for all principal and accessory buildings or structures on a single lot shall not exceed 25%.

Otisco Lake District Bulk Use Table

Permitted Uses	Min. Lot Size (sq. ft.)	Min. Lot Width (ft.)	Min. Setback Requirements			Max. Allowable Coverage (%)	Max. Bldg. Height (ft.)	Site Plan Review Required
			Front (ft.)	Sides (ft.)	Lake (ft.)			
One family	7500	50	30	10	50	35	35	
Two family	7500	50	30	10	50	35	35	
Boathouse	22,500	150	30	35	0	5	15	
Accessory Structures and Buildings	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
Shed	n/a	n/a	n/a	n/a	n/a	5	10	
Park	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
Deck or patio contiguous to house	n/a	n/a	n/a	n/a	n/a	5	n/a	
Seawall/Shoreline deck	n/a	n/a	n/a	0	0	5	n/a	
Gazebo or Cabana (max 100 ft2)	n/a	n/a	n/a	n/a	0	5	10	
Garage (for lots separated from lakefront lots)	5000	50	5	10	(Rear) 10	15	25	
Pool	n/a	n/a	n/a	n/a	n/a	5	10	
Uses Requiring a Special Permit								
Bed and Breakfast	7500	50	30	10	50	35	35	Y
Club	7500	50	30	10	50	35	35	Y
Restaurant	7500	50	30	10	50	35	35	Y
Home Occupation	7500	50	30	10	50	35	35	

A lot may be improved with not more than one (1) principal building or structure together with accessory and secondary structures as may be necessary and incidental thereto, and as permitted under the Zoning Code.

With the exception of a garage on a lot separated from a lakefront lot, the maximum allowable coverage for each accessory building or structure, including but not limited to sheds, decks, patios, gazebos, cabanas and pools, shall not exceed 5% of the total lot area. The maximum allowable coverage for all principal and accessory buildings or structures on a single lot shall not exceed 35%.

Keeping and Raising of Livestock
Animal Unit Table

The number of animals that can be kept on any lot in the RA District shall be limited to 0.2 animal units per acre for one (1) to five (5) acres. One additional animal unit may be added for each acre in excess of five acres. To determine the animal unit measure for any animal not specified in the Town of Spafford Keeping and Raising of Livestock Animal Unit Table in the Appendix, divide the average adult weight in pounds by one thousand (1,000).

Type of Livestock	Animal Unit Equivalent	Livestock allowed per 1 Acre	Livestock allowed per 2 Acres	Livestock allowed per 3 Acres	Livestock allowed per 4 Acres	Livestock allowed per 5 Acres	Livestock allowed per 6 Acres
Cow/calf pair, heifer or slaughter steer	1	0	0	0	0	1	2
Horse	1	0	0	0	0	1	2
Swine	0.4	0	0	1	1	2	3
Sheep, Goat, Llama.	0.2	1	2	3	4	5	10
Chickens, Ducks, Turkeys	0.02	10	20	30	40	50	100

Example: Resident X owns 6 acres and wishes to keep horses and sheep. The table and explanation above permit a total of 2 animal units for a 6 acre lot. Resident X may therefore keep a total of 1 horse and 5 sheep (1 animal unit being comprised of a horse and 1 animal unit being comprised of 5 sheep).