SUBDIVISION OF LAND and ZONING

Chapters 93 and 106

From the

CODE

of the

TOWN OF HARRIETSTOWN

COUNTY OF FRANKLIN
STATE OF NEW YORK

[Printed as follows: Subdivision of Land, adopted 4-23-1987; Zoning, as last amended 10-15-1992 by L.L. No. 1-1992. Consult municipal records for possible amendments adopted thereafter.]

GENERAL CODE PUBLISHERS CORP.
72 Hinchey Road
Rochester, New York 14624

1993

§ 93-13. Maintenance bonds.

§ 93-14. General liability insurance.

§ 93-15. Public franchise utilities.

ARTICLE IV
General Requirements and Subdivision Design Standards

§ 93-16. General requirements.

§ 93-17. Subdivision design standards.

ARTICLE V
Documents to be Submitted

§ 93-18. Submission required.

§ 93-19. Submission requirements for minor subdivision plat.

§ 93-20. Preapplication submission requirements for major subdivision.

§ 93-21. Submission requirements for major subdivision preliminary plat.

§ 93-22. Submission requirements for major subdivision final plat.

ARTICLE VI
Provisions For Clustering and Other Flexibility

§ 93-23. Application of § 281 of the Town Law.

ARTICLE VII
Waivers, Modification and Review

§ 93-24. Waiver of specific improvements.

§ 93-25. Modification of specific requirements.

§ 93-26. Review of decisions of Planning Board.

ARTICLE VIII
Miscellaneous Provisions

§ 93-27. Authority to sign subdivision plats.

§ 93-28. Plat void if revised after approval.

§ 93-29. Conflict with other provisions.

[HISTORY: Adopted by the Planning Board of the Town of Harrietstown 12-2-1986 and the Town Board of the Town of Harrietstown 4-23-1987. Amendments noted where applicable.]

GENERAL REFERENCES

Planning Board — See Ch. 29.
Fire prevention and building construction — See Ch. 49.
Flood damage prevention — See Ch. 53.
Water and sewers — See Ch. 102.
Zoning — See Ch. 106.

ARTICLE I
General Provisions

§ 93-1. Authority.

By authority conferred by resolution of the Town Board of the Town of Harrietstown, dated March 6, 1986, and pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Planning Board of the Town of Harrietstown is authorized and empowered to approve the development of

SUBDIVISION OF LAND and ZONING

Chapters 93 and 106

From the

CODE
of the

TOWN OF
HARRIETSTOWN

GENERAL CODE PUBLISHERS CORP.

entirely or partially undeveloped plats already filed in the office of the County Clerk and to approve preliminary plats within the Town of Harrietstown.

§ 93-2. Declaration of policy.

It is declared to be the policy of the Town of Harrietstown Planning Board to consider land subdivision plats as a part of a plan for an orderly, economic and efficient future growth and development of the town. The following objectives shall guide the Planning Board's decisions as related to the public health, safety and welfare:

A. Land to be subdivided and developed shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.

B. Proper provisions shall be made for water supply, drainage, sewerage and other needed improvements and utilities.

C. All proposed development shall be so designated as to be in harmony with the development pattern of adjacent properties.

D. Proposed streets shall compose a convenient system and shall be such of width, grade and location as to accommodate present and prospective traffic.

E. All development shall be designed to facilitate adequate fire and emergency protection and provide access for firefighting and related equipment.

F. Proper provision shall be made for permanent reservations of open spaces for parks and playgrounds and for the protection of natural drainage and significant historical and environmental features.

G. Future development shall bear a fair share of the capital costs to the town for municipal improvements servicing such new development.

§ 93-3. Definitions.

For the purpose of this chapter, certain words and terms used herein are defined as follows:

CLERK OF THE PLANNING BOARD — That member of the Planning Board who shall be designated to perform the duties of the "Clerk of the Planning Board" for purposes of this chapter.

CUL-DE-SAC STREET — A street with only one (1) means of vehicular ingress and egress and with a turnaround at its terminus.

DESIGNATED TOWN ENGINEER — That licensed professional engineer, either an employee or a consultant, who shall be chosen by the Planning Board to perform the duties of the "designated Town Engineer" for purposes of this chapter.

EASEMENT — An acquired right of use on the property of another for a specified purpose on a designated part of that property.

IMPROVEMENT — A physical change to the land or the installation of certain services necessary to produce usable and desirable lots, blocks or sites from raw acreage, including but not limited to water and sewer, grading, pavement, curbs, gutters, storm sewers and drains and betterments to existing watercourses, pedestrian paths, street signs, shade trees, sodding or seeding and monuments or other markers.

OFFICIAL MAP — The Map which may be established by the Town Board under § 270 of the Town Law showing streets, highways and parks and drainage theretofore laid out, adopted and established by law; and any amendments thereto adopted by the Town Board or additions thereto resulting from the approval of subdivision plats by the Planning Board and the subsequent filing of such approved plats.

PLANNING BOARD — The Planning Board of the Town of Harrietstown, Franklin County, New York.

PRELIMINARY PLAT — The maps, drawings and charts showing the layout of a proposed subdivision, submitted to the Planning Board for approval prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout and improvements of such proposed subdivision.

SKETCH PLAN — A sketch of a proposed subdivision showing the information specified by these regulations, to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and the objectives of this chapter.

STREET — A way for vehicular traffic, whether designated as a "street," "highway," "thoroughfare," "parkway," "throughway," "road," "artery," "avenue," "boulevard," "lane," "place" or "drive" or however otherwise designated.

STREET, COLLECTOR — A street which carries traffic from local streets to the county or state highway network, including the principal entrance streets of a major residential development.

STREET, LOCAL — A street designed to provide direct access to abutting properties.

STREET, PRIVATE SEASONAL — A privately maintained street, not plowed in winter, used to provide access to seasonal use dwellings and remote areas.

STREET WIDTH — The width of the right-of-way or the distance between property lines on opposite sides of a street, measured at right angles to the center line of such street.

SUBDIVIDER — Any person, firm, corporation, partnership or association who or which shall lay out for the purpose of development and/or sale of any

subdivision, as defined herein, either for himself, itself or for others.

SUBDIVISION — The division of any parcel of land into two (2) or more lots, plots, sites or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or building development. Such division shall include resubdivision of parcels of land for which an approved plat has already been filed in the office of the County Clerk and which is entirely or partially undeveloped. For the purposes of this chapter, a parcel shall be considered already to have been divided into two (2) or more lots by one (1) or more public streets or railroad or utility rights-of-way held in fee simple.

A. MINOR SUBDIVISION — Any subdivision containing not more than four (4) lots, each at least the minimum size permitted by the Zoning Law,[1] each fronting on an existing street, not involving any new street or road or the extension of municipal facilities and not in conflict with any provision or portion of the Official Map, the Zoning Law or this chapter.

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

SUBDIVISION PLAT or FINAL PLAT — The final maps, drawings and charts on which the subdivider's plan of subdivision containing all information or details required by law and by this chapter is presented to the Planning Board for approval and which, if approved, will be submitted to the Franklin County Clerk for filing or recording.

1 Editors Note: See Ch. 106, Zoning.

SURVEYOR, LAND — A person licensed as a land surveyor in the State of New York.

ARTICLE II
Procedure For Approval of Land Subdivision

§ 93-4. Application required.

Whenever any subdivision of land is proposed and before any contract for the sale of or any offer to sell any lots in such subdivision or any part thereof is made and before any permit for the erection of any structure in such proposed subdivision shall be granted, the subdivider or his duly authorized agent shall apply, in writing, for approval of such proposed subdivision in accordance with the following procedures.

§ 93-5. Preapplication and classification.

A. Submission of sketch plan. Any owner of land shall, prior to subdividing land, submit to the Clerk of the Planning Board, at least ten (10) days prior to the regular meeting of the Planning Board, a sketch plan of the proposed subdivision, which shall comply with the requirements of Article V, § 93-20, of this chapter, for purposes of classification and preliminary discussion.

B. Discussion of requirements and classification.

(1) The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the requirements of this chapter for street improvements, drainage, sewerage, water supply, fire protection and similar aspects, as well as the availability of existing services and other pertinent information.

(2) Classification of the sketch plan is to be made at this time by the Planning Board as to whether it is a minor or major subdivision, as defined in this chapter. A notation regarding the classification shall

be made by the Planning Board directly on the sketch plan. The Planning Board may require, however, when it deems it necessary for the protection of the public health, safety and welfare, that a minor subdivision comply with all or some of the requirements specified for major subdivisions. If the sketch plan is classified as a minor subdivision, the subdivider shall then comply with the procedure outlined in Article II, § 93-6, of this chapter. If it is classified as a major subdivision, the subdivider shall then comply with the procedures outlined in Article II, §§ 93-7 and 93-8.

C. Study of sketch plan. The Planning Board shall, within thirty (30) days after submission, determine whether the sketch plan meets the objectives of this chapter and shall, where it deems necessary, make, in writing, specific recommendations to be incorporated by the applicant in the next submission to the Planning Board.

D. Preapplication does not require formal application to the Planning Board or the payment of a fee, nor does it allow the filing of a plat with the County Clerk.

§ 93-6. Approval of minor subdivision plat.

A. Application and fee. Within six (6) months of a classification by the Planning Board of a proposed subdivision as a minor subdivision, the subdivider shall submit an application for approval of a minor subdivision plat. The plat shall conform to the layout shown on the sketch plan, plus any recommendations made by the Planning Board. Said application shall also conform to the requirements listed in Article V, § 93-19. All applications for plat approval for a minor subdivision shall be accompanied by a fee of fifty dollars ($50.) or twenty dollars ($20.) per lot, whichever shall be greater. Plats for commercial, industrial or multifamily developments shall be accompanied by a fee computed on the basis of fifty dollars ($50.) per acre subdivided.

B. Number of copies. The application for approval of a minor subdivision plat, complete with five (5) copies of the subdivision plat, shall be filed with the Clerk of the Planning Board.

C. Subdivider to attend Planning Board meeting. The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the minor subdivision plat.

D. Approval procedure. The approval procedure shall be as follows:

(1) Within forty-five (45) days of the receipt of the subdivision plat by the Clerk of the Planning Board, the Planning Board shall hold a public hearing on such plat.

(2) Notice of the public hearing shall be advertised at least once in a newspaper of general circulation in the town at least five (5) days before such hearing.

(3) Within forty-five (45) days from the date of such public hearing, the Planning Board shall act, by resolution, on the subdivision plat. The Planning Board shall either approve, conditionally approve with or without modification or disapprove the plat. The Board shall specify, in writing, its reasons for any such disapproval. In the event that the hearing is not held or if the Board fails to disapprove the subdivision plat within the forty-five (45) days prescribed above, the plat shall be deemed approved. The time in which the Planning Board must take action may only be extended by mutual consent of the owner and the Planning Board.

(4) Approval.

(a) Upon approval, the subdivision plat shall be properly signed by the duly authorized person or persons and shall be filed by the applicant in the office of the County Clerk. Any minor subdivision plat not so filed or recorded within

sixty (60) days of the date upon which such plat is approved or considered approved by reason of the failure of the Planning Board to act shall become null and void.

(b) If conditional approval is granted, the Planning Board shall empower a duly authorized person or persons to sign the plat upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval. Within five (5) days of the resolution granting conditional approval, the plat shall be so certified by the Clerk of the Planning Board as conditionally approved, and a copy shall be filed in his office and a certified copy mailed to the subdivider. The copy mailed to the subdivider shall include a statement of such requirements which, when completed, will authorize the signing of the conditionally approved plat. Conditional approval of a plat shall expire one hundred-eighty (180) days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature if, in its opinion, such extension is warranted, for a period not to exceed two (2) additional periods of ninety (90) days each.

§ 93-7. Approval of preliminary plat for major subdivision.

A. Application and fees.

(1) Prior to the filing of an application for the approval of a major subdivision plat, the subdivider shall file an application for consideration with a preliminary plat of the proposed subdivision. Such preliminary

plat shall be clearly marked "preliminary plat" and shall be in the form prescribed by Article V, § 93-21 hereof. The preliminary plat shall, in all respects, comply with the requirements of §§ 276 and 277, and as set forth in this chapter, except where a waiver may be specifically authorized by the Planning Board.

(2) Payment of a fee shall accompany all applications for approval of a preliminary plat and be computed on the basis of twenty dollars ($20.) per residential single-family lot. Plats for commercial, industrial or multifamily developments shall be accompanied by a fee computed on the basis of fifty dollars ($50.) per acre subdivided. The minimum fee for a minor subdivision application shall be fifty dollars ($50.); the minimum fee for a major subdivision application shall be one hundred dollars ($100.).

B. Purpose.

(1) The preliminary plat and the supporting documents for a proposed subdivision constitute the material to be officially submitted to the Planning Board, and later one (1) copy shall become the official record of the Town Clerk. They show the layout of the subdivision and its public improvements so that the Planning Board can indicate its approval or disapproval of the subdivision prior to the time that the final plat, including the design and detailing of the public improvements and utilities, is completed. Approval of the preliminary plat does not constitute an approval of the final plat, nor should it be considered a valid basis for the construction of site improvements or other commitments which depend upon its design characteristics.

(2) When revision of the proposed subdivision is required, the preliminary plat shall be revised accordingly so that the files of the Planning Board and other officials will be current.

(3) The preliminary layout shall serve as a key map to subdivisions subsequently laid out in sections or phases on final plats.

C. Number of copies. The application for approval of the preliminary plat, complete with five (5) copies of the preliminary plat, shall be filed with the Clerk of the Planning Board. A proposed submission which does not include all the required drawings and documents shall not be considered for such filing.

D. Subdivider to attend Planning Board meeting. The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the preliminary plat.

E. Approval procedure. The approval procedure shall be as follows:

(1) Within forty-five (45) days of receipt of the preliminary plat by the Clerk of the Planning Board, the Planning Board shall hold a public hearing on such preliminary plat.

(2) Notice of the public hearing shall be advertised at least once in a newspaper of general circulation in the town at least five (5) days before such hearing.

(3) Within forty-five (45) days from the date of such public hearing, the Planning Board shall act, by resolution, on the preliminary plat. The Planning Board shall either approve, with or without modifications, or disapprove the preliminary plat. The time in which the Planning Board must take action may only be extended by mutual consent of the owner and the Planning Board. Failure to take action on a preliminary plat within the time prescribed therefore shall be deemed approval of the plat.

(4) When approving a preliminary plat, the Planning Board shall state, in writing, the modifications, if any, it deems necessary for submission of the plat in

final form with respect to the specific changes which it will require in the preliminary plat, the character and extent of the required improvements for which waivers may have been specifically requested and which, in its opinion, may be waived without jeopardy to the public health, safety and general welfare and the categories of improvement or the amount of all bonds therefor which the Planning Board shall require as a requisite to approval of the final plat. The action of the Planning Board, plus any conditions attached thereto, shall be noted on three (3) copies of the preliminary plat. One (1) copy shall be returned to the subdivider, one (1) shall be retained by the Planning Board, and one (1) shall be forwarded to the Town Board through the Town Clerk. Prior to the approval of the final plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at the public hearing.

§ 93-8. Approval of final plat for major subdivision.

A. Application.

(1) Following approval, with or without modifications, of the preliminary plat, the subdivider shall prepare a final plat, together with all other supplementary documents, in accordance with Article V, § 93-22 of this chapter.

(2) The final plat and other supplementary documents shall be filed with the Clerk of the Planning Board, together with a written application for final approval, within six (6) months after approval, with or without modifications, of the preliminary plat, unless such time limit is extended by mutual consent of the applicant and the Planning Board.

B. Partial development. If desired by the subdivider, the final plat may consist only of that portion of that approved preliminary plat which is proposed for recording and development at the time, provided that such portion conforms to all applicable requirements of this chapter and that the subdivision is being submitted for approval progressively in contiguous sections satisfactory to the Planning Board.

C. Purpose. The final plat and the supporting documents for a proposed subdivision constitute the complete development of the subdivision proposal. After a public hearing, as required, and approval by the Planning Board, this complete submission, along with the performance bond and the general liability insurance policy, as approved by the Town Board, becomes the basis for the construction of the subdivision and the inspection services by the Planning Board and the Town Engineer or other delegated town officials.

D. Number of copies. The application for approval of the final plat, complete with five (5) copies of the final plat, shall be filed with the Clerk of the Planning Board.

E. Approval procedure. The approval procedure shall be as follows:

(1) Within forty-five (45) days of receipt of the final plat by the Clerk of the Planning Board, the Planning Board shall hold a public hearing, if required, on such final plat. Such hearing shall be advertised at least once in a newspaper of general circulation in the town at least five (5) days before such hearing; provided, however, that the Planning Board deems the final plat to be in substantial agreement with the preliminary plat approved under § 93-7 of this Article and modified in strict accordance with requirements of such approval. If such preliminary plat has been approved with modification, the Planning Board may waive, by resolution, the requirement for such public hearing.

(2) Approval.

(a) Within forty-five (45) days from the date of such public hearing or from the date of submission if no such hearing is held, the Planning Board shall act, by resolution, on the final plat. The Planning Board shall either approve, conditionally approve with or without modification or disapprove the final plat. The time in which the Planning Board must take action may only be extended by mutual consent of the owner and the Planning Board. Failure to take action on a preliminary plat within the time prescribed therefor shall be deemed approval of the plat.

(b) If conditional approval is granted, the Planning Board shall empower a duly authorized person or persons to sign the plat upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval. Within five (5) days of the resolution granting conditional approval, the plat shall be so certified by the Clerk of the Planning Board as conditionally approved, and a copy shall be filed in his office. A certified copy, mailed to the subdivider, shall include a statement of such requirements which, when completed, will authorize the signing of the conditionally approved plat. Conditional approval of the plat shall expire one hundred-eighty (180) days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature if, in its opinion, such extension is warranted, for a period not to exceed two (2) additional periods of ninety (90) days each.

F. Final approval and filing. Upon completion of the requirements in Article II, § 93-8 and Article III, §§ 93-11 and 93-12, and notation to that effect upon the subdivision plat, the subdivision plat shall be deemed to have final approval and shall be properly signed by the duly designated officer of the Planning Board. The final plat may then be filed by the applicant in the office of the Franklin County Clerk. Planning Board approval of a final plat shall not be deemed an acceptance by the town of any street or other land shown as offered for cession to public use.

G. Expiration of approval.

(1) The approval of a final plat or the certificate of the Town Clerk as to the failure of the Planning Board to act within the time required by law shall expire within sixty (60) days after the date of the Planning Board's resolution authorizing the duly designated officer of the Planning Board to sign the drawings or from the date the certificate is issued unless the filing of the plat or a section thereof is accomplished within that time period in the office of the Franklin County Clerk in accordance with § 278 of the Town Law.

(2) Upon application by the subdivider, the Planning Board may extend the time for filing and recording such plat if, in its opinion, such extension is warranted by the particular circumstances thereof, for a time not to exceed two (2) additional periods of ninety (90) days each.

(3) Expiration of an approval shall mean that any further action shall require payment of a new filing fee as well as Planning Board review of all previous findings. On and after such expiration of plat approval, any formal offers of cession submitted by the subdivider shall be deemed to be invalid, void and of no effect.

H. Filing in sections. At the time the Planning Board grants plat approval, it may permit the plat to be divided into two (2) or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the plat. In accordance with § 267 of the Town Law, the applicant may file a section of the approved plat with the County Clerk. In these circumstances, plat approval on the remaining sections of the plat shall continue in effect for a period of three (3) years from the filing date of the first section. When a plat is filed by section with the County Clerk, the applicant shall, within thirty (30) days, file with the Town Clerk the entire approved preliminary plat. The subdivider shall not be permitted to begin construction of buildings in any other section until such section has been filed in the office of the County Clerk and the required improvements have been installed and approved in such section or a bond covering the cost of such improvements has been posted.

§ 93-9. Building permits and certificates of occupancy.

A. Upon the posting of a satisfactory performance bond or upon certification of completion or installation of all required improvements to the satisfaction of the Town Board, in accordance with Article III, § 93-12, of this chapter, and upon the Planning Board's approval on the final plat, the subdivider may be issued building permits for the construction of buildings in accordance with the approved subdivision plat and the town's Zoning Law.[2]

B. Upon completion of all required public improvements to town standards and upon certification of such, as provided in Article III, § 93-12 of this chapter, the subdivider may be issued certificates of occupancy for any buildings constructed in the subdivision.

[2] Editor's Note: See Ch. 106, Zoning.

ARTICLE III
Required Improvements and Performance Bonds for Major Subdivisions

§ 93-10. Compliance required.

Any subdivider who proposes to develop a major subdivision in the Town of Harrietstown shall comply with the regulations provided in this Article regarding the posting of bonds and the installation of required improvements.

§ 93-11. Required improvements.

In making a determination regarding the necessity and extent of the installation of improvements, the Planning Board shall take into consideration the prospective character, density and uses in the proposed subdivision, whether residential, commercial or industrial.

A. Required improvements enumerated. To the extent applicable, the Planning Board shall require the installation of the following improvements in accordance with Town Law, except where waived in accordance with Article VII, § 93-24, of this chapter:

(1) Parks, playgrounds or other public open spaces of adequate size and location for recreational purposes.

(2) Paved streets and highways.

(3) Street signs and poles.

(4) Pedestrianways.

(5) Streetlighting.

(6) Street trees.

(7) Water supply facilities.

(8) Sanitary sewage disposal facilities.

(9) Storm drainage system.

(10) Seeding and other means of erosion control.

(11) Monuments suitably placed and installed.

B. Standards for installation. All improvements as required by the Planning Board shall be installed in accordance with the standards, specifications and procedures acceptable to the appropriate town departments or as provided in this chapter.

C. Modifications of design of improvements. If, at any time before or during construction of the required improvements, it is demonstrated to the designated Town Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the designated Town Engineer may, upon concurrence with a previously delegated member of the Planning Board, authorize minor modifications which are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any of the improvements required by the Planning Board. The designated Town Engineer shall issue any such authorization under its provision, in writing, and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.

D. Inspection of improvements. At least five (5) days prior to commencing construction of the required improvements, the subdivider shall pay to the Town Clerk the inspection fee required by the Town Board and shall notify the Town Board, in writing, of the time when he proposes to commence construction of such improvements so that the Town Board may cause such inspection to be made to assure that all town specifications and requirements shall be met during the construction of the required improvements and to assure the satisfactory completion of the improvements and utilities as required by the Planning Board. The inspection fee shall generally be set by the Town Board at two percent (2%) of the cost of the improvements.

E. Proper installation of improvements. If the designated Town Engineer shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall so report to the Town Board, the Building Inspector and the Planning Board. The Town Board shall then notify the subdivider and, if necessary, the bonding company and shall take all necessary steps to preserve the town's right under the bond. No plat shall be approved by the Planning Board as long as the subdivider is in default on the previously approved plat.

§ 93-12. Performance bonds for required public improvements.

A performance bond or equivalent security shall be delivered to the town to guarantee thereby to the town that the subdivider shall faithfully cause to be constructed and completed, within a reasonable time, the required public improvements and shall convey the required lands and improvements, where applicable, to the town, free and clear of all encumbrances.

A. Procedure. Before the Planning Board grants final approval of the final subdivision plat, the subdivider shall follow the procedure set forth in either Subsection A(1) or (2) herein:

(1) In an amount set by the Planning Board, the subdivider shall either file with the Town Clerk a certified check to cover the full cost of the required improvements or the subdivider shall file with the Town Clerk a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of § 277 of the Town Law and, further, shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety. A period of one (1)

year or such other period as the Planning Board may determine appropriate, not exceeding three (3) years, shall be set forth in the bond within which the required improvements must be completed. If the Planning Board shall decide at any time during the term of the performance bond that the extent of building development that has taken place in the subdivision is not sufficient to warrant all the improvements covered by such performance bond or that the required improvements have been installed, as provided in this Article and by the Planning Board, in sufficient amount to warrant reduction in the face amount of said bond or that the character and extent of such development requires additional improvements previously waived for a period stated at the time of fixing the original terms of such bond, the Planning Board may modify its requirements for any or all such improvements; and the face value of such performance bond shall thereupon be reduced or increased by an appropriate amount so that the new face value will cover the cost in full of the amended list of improvements required by the Planning Board, and any security deposited with the bond may be reduced or increased proportionately.

(2) The subdivider shall complete all the required improvements to the satisfaction of the designated Town Engineer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Planning Board. For any required improvements not so completed, the subdivider shall file with the Town Clerk a bond or certified check covering the costs of such improvements and the cost of the satisfactory installation of any improvement not approved by the designated Town Engineer. Any such bond shall be satisfactory to the Town Board and the Town Attorney as to form, sufficiency, manner of execution and surety.

B. Inspection of improvements. At least five (5) days prior to commencing construction of the required improvements, the subdivider shall pay to the Town Clerk the inspection fee required by the Town Board and shall notify the Town Board, in writing, of the time when he proposes to commence construction of such improvements so that the Town Board may cause such inspection to be made during the construction of the required improvements and to assure the satisfactory completion of the improvements and utilities as required by the Planning Board.

C. Proper installation of improvements. If the designated Town Engineer shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall so report to the Town Board, the Building Inspector and the Planning Board. The Town Board shall then notify the subdivider and, if necessary, the bonding company and shall take all necessary steps to preserve the town's rights under the bond. No plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved plat.

§ 93-13. Maintenance bonds.

The subdivider shall file with the Town Board a maintenance bond in an amount based on a maximum of ten percent (10%) of the performance bond estimate and which shall be adequate to assure the satisfactory condition of any initial public improvements for a period of one (1) year following its completion and acceptance, where applicable, by the Town Board. Such bond shall be satisfactory to the Town Attorney as to form, manner of execution and surety and in an amount satisfactory to the designated Town Engineer.

§ 93-14. General liability insurance.

A. Filing requirement. The subdivider shall file with the Town Attorney a general liability insurance policy at the same time that he files his performance bond; the Town Board shall approve the policy as to form. The policy shall be in force during the term of the performance bond and shall be extended in conformance with any extension of the performance bond.

B. Limits of coverage. The policy shall insure the town and the subdivider and shall cover all operations in the development involving existence and maintenance of property and buildings and contracting operations of every nature involving all public improvements. Said policy shall have limits of liability of one hundred thousand dollars ($100,000.) for bodily injury to each person and three hundred thousand dollars ($300,000.) liability on the aggregate for each accident and property damage liability of five thousand dollars ($5,000.) for each accident and twenty-five thousand dollars ($25,000.) aggregate property damage liability, or such higher limits as the Planning Board may require.

§ 93-15. Public franchise utilities.

A. Service connections. When public franchise utilities are to be installed, the subdivider shall submit to the Planning Board written assurances from each public franchise utility company that such company will make the necessary service installations within a time limit and according to the specifications satisfactory to the Planning Board.

B. Easements or other releases. The final plat shall show statements by the owner granting all necessary easements or other releases where required for the installation of public franchise utilities.

ARTICLE IV
General Requirements and Subdivision Design Standards

§ 93-16. General requirements.

The subdivider shall observe all general requirements for land subdivisions as herein provided:

A. Character of land. Land to be subdivided shall be of such character that, in the opinion of the Planning Board, it can be used safely for building purposes without danger to health or peril from fire, flood or other menace and with a minimum of detrimental effects on the environment.

B. Preservation of natural features. The Planning Board may require the preservation of all natural features which add value to residential developments and to the community, such as large trees or wooded areas, watercourses and waterfalls, beaches, historic spots and similar irreplaceable assets.

C. Minimum lot area. No lot in a subdivision shall be less than the minimum lot area required by the Zoning Law[3] for the district in which it is located, unless otherwise provided in the Zoning Law or as provided by Article VI of this chapter.

D. Plats with access through other municipalities. Whenever access to a subdivision is by crossing land in another municipality, the Planning Board may require certificates from authorities having appropriate jurisdiction that such access is adequately improved or that a legally adequate performance bond has been duly posted and is sufficient in amount to assure the construction of the necessary road or roads.

E. Replatting. Replatting of all or part of the land covered by an existing plat which has been laid out prior to

[3] Editor's Note: See Ch. 106, Zoning.

compulsory filing shall comply with this chapter as now required.

F. Preservation of topsoil. No topsoil shall be removed from any land in the town, except that in areas over which heavy equipment will be operated, the topsoil shall be stripped and piled on the property. When final grades have been established and construction activities have been completed, the entire property shall be suitably graded and recovered with topsoil to a depth of at least four (4) inches after rolling, except that portion covered by buildings or included in the roads.

G. Watercourses. Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by culverts or other permanent structurs. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way not less than thirty (30) feet in width. All such structures and rights-of-way shall be of a design and specification approved by the designated Town Engineer and the Town Highway Superintendent.

H. Floodplains. If any portion of the land within the subdivision is subject to periodic inundation or flood hazard caused by stormwater, this portion shall be clearly indicated on any submissions required by this chapter. In cases of doubt, the Planning Board may require the submission of a flood hazard study delineating the limits of the one-hundred-year floodplain. Such study shall be conducted by a licensed professional engineer.

(1) Land subject to flooding and land deemed by the Planning Board to be otherwise uninhabitable shall not be platted for residential occupancy nor for any such other use that may increase danger to health, life or property or may aggravate the flood hazard.

(2) Any subdivision, including all proposed improvements and construction, must comply with

all the applicable provisions of the National Flood Insurance Act of 1968, including all amendments thereto.

§ 93-17. Subdivision design standards.

The subdivider shall conform to all subdivision design standards, as herein provided. These standards shall be considered minimum standards and shall be varied from or waived only as provided for in Article VII of this chapter.

A. Lots.

(1) Lots to be buildable. The lot arrangement shall be such that in constructing a building in compliance with the Zoning Law,[4] there will be no foreseeable difficulties for reasons of topography or other natural conditions.

(2) Corner lots. Corner lots shall be of sufficient dimensions so that any structure placed thereon shall conform to the building setback line on both streets, as well as to the side yard requirements, for the zoning district in which the lot is located.

(3) Minimum lot size. Each lot shall be no smaller than the minimum size required by the Zoning Law for the district in which it is located. The minimum lot width may be measured at the front property line or at the rear line of the required front yard, at the discretion of the Planning Board.

(4) Side yard lines. All side yard lines of lots shall be substantially at right angles to straight street lines and radial to curved street lines.

(5) Driveway access. Whenever possible, lots shall be laid out so that driveways have access to a street which is intended to carry the least traffic. Driveway

4 Editor's Note: See Ch. 100, Zoning.

grades between the street pavement and the building setback line shall not exceed ten percent (10%).

(6) Access from public streets.

(a) Each lot shall be provided with direct access to an existing public street or a public street proposed for development as part of the subdivision, except as provided in Subsection A(7) below.

(b) A lot of less than two hundred (200) feet frontage fronting on a county or state highway shall be designated so as to share a common curbcut with an adjacent lot if either adjacent lot has not been previously granted a curbcut permit. When more than three (3) lots are proposed to be subdivided from a parcel with frontage on a county or state highway [or there is a possibility of creating four (4) or more lots equal in size to the average area of the lots proposed for subdivision], frontage for all lots shall be on internal streets, not on the county or state highway. Each lot permitted to front on a county or state highway shall provide for an improved on-site turnaround so as to obviate the necessity of any vehicle's backing onto such highway.

(7) Access from private streets. Access from private streets, as may be authorized under § 280-a of the Town Law, shall be deemed acceptable only if such streets are designed and improved in accordance with Article IV, § 93-17B of this chapter, and means satisfactory to the Planning Board are provided for the long-term ownership and maintenance of said private streets.

B. Streets.

(1) General objectives. Streets shall be of sufficient width, suitably located and adequately constructed to accommodate the prospective traffic and to afford access for fire-fighting, snow removal and other road maintenance equipment. The arrangement of streets shall be coordinated such that they compose a convenient system, cause no undue hardship to adjoining properties and render no property inaccessible from an existing public street or from a proposed street in a subdivision for which a completion bond has been posted.

(2) Arrangement. To the extent practicable, the arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining properties which are not yet subdivided, by use of stub streets, in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and services.

(3) Street connections. Subdivisions containing twenty (20) or more lots shall have at least two (2) connections with existing public streets, with streets shown on the town's Official Map, as may be developed in accordance with § 270 of the Town Law, or streets shown on an approved subdivision plat and for which a performance bond or similar performance guaranty has been posted.

(4) Cul-de-sac streets. Any cul-de-sac or dead-end street shall be provided with a turnaround forty (40) feet in right-of-way radius and twenty-eight (28) feet in pavement radius, as measured from the center line of the terminating street.

(5) Minimum design standards. Streets shall be laid out and constructed in accordance with the following minimum design standards:

Standard	Collector Street	Local Street	Private Seasonal Use Street
Grade	6% maximum; 2% within 150 feet of intersection	8% maximum; 3% within 150 feet of intersection	10% maximum; 3% at intersections
Horizontal curves (minimum)	200 feet	150 feet	125 feet
Right-of-way	50 feet	50 feet	30 feet
Width of street surface	24 feet	18 feet	16 feet
Minimum type of surface treatment	Bituminous	Stabilized	Gravel
Minimum line of sight	300 feet	225 feet	175 feet
Tangents (minimum)	200 feet	100 feet	100 feet
Shoulders (minimum)	6 feet	6 feet	4 feet
Approximate design speed	35 mph	25 mph	15 mph

(6) Minimum construction standards for all streets. Streets shall be constructed in accordance with the following minimum acceptable construction standards and practices:

(a) Rough grading.

[1] All rock, earth and other objectionable materials shall be removed, to the extent necessary, from within the street surface and shoulder areas and shall be properly disposed of. Earth embankments shall be constructed to established lines and grades

at the locations shown on the plans. Embankment materials shall:

[a] Be natural soil, free from excessive moisture, frost, stumps, trees, roots, sod, mulch, marl, vegetable matter or other unsuitable materials.

[b] Be obtained from approved pits.

[c] Be well-graded, with a minimum silt content.

[d] Be suitable for compaction in layers not exceeding eight (8) inches in thickness.

[e] Remain stable when wet.

[2] Preparation of subgrade. The subgrade shall be properly prepared to receive the pavement and drainageways in conformity with the plans. Before the base material is placed upon the subgrade, it shall be shaped to line and grade, compacted and free from hollows, mounds and wet or soft spots.

[3] Materials to be used. The source and acceptability of all roadbed materials shall be subject to the approval of the Town Highway Superintendent. All costs for obtaining suitable materials shall be borne by the contractor.

[4] Placing of layers. Embankment materials shall be placed in horizontal layers not greater than eight (8) inches in thickness after compaction. Each layer shall be tamped or rolled in succession.

(b) Subbase, base and surface courses.

[1] The subbase course shall consist of gravel, with stones not to exceed five (5) inches in diameter, to a depth of six (6) inches.

[2] The base course shall be constructed of gravel, with stones not to exceed one and one-half (1½) inches in diameter, to a depth of six (6) inches. If the surface is to be sealed by bituminous pavement, the base course may be constructed of gravel with stones not to exceed three (3) inches in diameter.

[3] As required by the design standards, the surface course shall consist of one (1) or more layers of bituminous pavement or a stabilized surface on the approved base courses.

(c) Drainage.

[1] Drainage ditches shall be constructed in conjunction with the new street, as specified by the plat, in such a way that all surface waters neither inundate any private property nor effect any existing streets.

[2] Grades of all street ditches shall be a minimum of one and one-half (1½) feet below the center of the surface. Ditches shall be designed to have a minimum water-carrying capacity equal to the peak runoff rate from the ten-year heavy rainfall for one (1) day. Drainage culverts shall be adequately sized and located so as to maintain preconstructed surface drainage patterns.

(d) Exceptions. In cases where the Planning Board, upon the recommendation of the Town Highway Superintendent, feels that these

standards are inappropriate, exceptions may be made if the interest of the community is served.

C. Pedestrianways.

(1) Adequate provision shall be made for the convenient and safe movement of pedestrians and bicycles in any subdivision of land for residential purposes throughout the Town of Harrietstown.

(a) Pedestrianways on collector streets. All streets designated as collector streets shall have an improved pedestrian path, sidewalk or bikeway provided on both sides of the street. Any such sidewalk or pedestrian path shall be so placed that there will be a distance of not less than four (4) feet between the sidewalk and the street pavement. A bikeway or combined bicyclist/pedestrian path not less than four (4) feet in width may be situated adjacent to the street pavement and visually separated therefrom by striping on both its inner and outer edges.

(b) Pedestrianways on local streets. All streets designated as local streets shall have an improved pedestrian path, sidewalk or bikeway provided on at least one (1) side of the street. Any such sidewalk or pedestrian path shall be so placed that there will be a distance of not less than four (4) feet between the sidewalk and the street pavement. A bikeway or combined bicyclist/pedestrian path not less than four (4) feet in width may be situated adjacent to the street pavement and visually separated therefrom by striping on both its inner and outer edges.

(2) To the extent considered practicable by the Planning Board and in consideration of public health, safety and convenience, the Planning Board may require

that additional or alternatively located pedestrianways be provided within a residential subdivision to provide access to parks or public spaces, school sites, neighborhood shopping facilities or similar destinations. Any such pedestrianway may be situated within either a public right-of-way or established within a suitable easement.

D. Public improvements and franchise utilities.

(1) Placement. Underground improvements required by the Planning Board, in accordance with Article III, § 93-11, and public franchise utilities shall be placed in the street rights-of-way between the street paving and the right-of-way line. Where topography makes such placement impracticable, perpetual unobstructed easements at least fifteen (15) feet in width shall be provided for along lot frontage abutting the street lines, with satisfactory access to the street.

(2) Service connections.

(a) Where an appropriate public water main already exists and is accessible, the subdivider may connect into said main and provide a water connection for each lot in accordance with Article 13 of the Town Law, the Public Health Law and other applicable laws, rules and regulations. Where an appropriate water main does not exist or is not accessible, the subdivider shall install, at his own expense, such main, together with all necessary valves, cutoffs, fire hydrants, pumps, storage tanks, meters and other equipment necessary to make such water system conform to the requirements of the town.

(b) Where an appropriate public sanitary sewer system is reasonably accessible, the subdivider shall install, at his expense, the

necessary connections into the system and shall provide a sewer connection for each lot.

(c) Where public water and/or sewer cannot be reasonably provided, private water supply and/or sewage disposal facilities, as applicable, shall be provided in accordance with Subsection E below.

E. Private water supply and sewage disposal facilities.

(1) General. As a part of subdivision plat review and approval, the Planning Board shall ascertain that each prospective dwelling unit may be adequately served by acceptable water supply and sewage disposal facilities. In general, an acceptable sewage disposal method will meet the following criteria:

(a) Drinking water supplies will not be contaminated.

(b) A health hazard will not be created as the result of sewage exposed on the ground surface, accessible to children or animals.

(c) It will not pollute or contaminate the waters of any nearby stream, wetland, pond or lake.

(d) It will not cause a nuisance due to odor or unsightliness.

(e) State and other regulations governing water pollution or sewage disposal will not be violated.

(2) Site evaluation required.

(a) The type and specifications of a system designed to adequately dispose of household wastes shall be determined by individual site conditions. An evaluation of site conditions, as related to waste disposal, shall include consideration of the soil characteristics; slope; the presence of surface and ground water; the

depth to bedrock; and the results of a percolation test.

(b) Sites where conventional waterborne septic systems are not acceptable include areas frequently flooded; areas with slopes greater than fifteen percent (15%); areas where bedrock is less than four (4) feet below the surface; and areas where soils are severely limited for septic tank use based on an on-site percolation test result of greater than sixty (60) minutes per inch.

(3) Design requirements. All on-site water supply and sewage disposal facilities shall be designed and installed in accordance with the requirements of this section and the New York State Department of Health.

(a) Minimum separation distances from wastewater sources are presented in the following table:

Wastewater Sources	Well (feet)	Water Body (feet)	Dwelling (feet)	Property Line (feet)
Septic tank	75	75	10	25
Distribution box	100	100	20	25
Absorption field	100	100	20	25
Dry well	75	50	20	50
Outhouse	100	50	20	50

(b) Seepage pits and cesspools are not permitted, and wells shall be at least fifty (50) feet from any property line unless special circumstance exist.

(c) Minimum septic tank capacities based on the maximum bedroom count of an individual dwelling unit are presented below:

Number of Bedrooms	Minimum Capacity (gallons)
1,2,3	1,000
4	1,250
5	1,500
6	1,750

(d) The minimum length of perforated pipe installed in a tile field is a function of bedroom count and percolation time. Minimum requirements are presented below, with the provision stated that no single pipe run shall exceed sixty (60) feet in length:

Length of Tile Field for Each Bedroom (150 Gallons per day)

Percolation time minutes/inches	Length (feet)
0 to 5 minutes	20 feet
6 to 7 minutes	25 feet
8 to 10 minutes	30 feet
11 to 15 minutes	39 feet
16 to 20 minutes	50 feet
21 to 30 minutes	63 feet
31 to 45 minutes	84 feet
46 to 60 minutes	125 feet
61 or more minutes	Conventional tile field not acceptable

ARTICLE V
Documents to be Submitted

§ 93-18. Submission required.

Any subdivider who proposes to develop a subdivision in the Town of Harrietstown shall submit plats and other documents for approval, as provided in this Article.

§ 93-19. Submission requirements for minor subdivision plat.

In the case of a minor subdivision only, the subdivision plat application shall include the following information:

A. An area map showing the location of that portion of the tract which is to be subdivided in relation to the entire tract and showing the distance to the nearest street intersection. The drawing of the entire tract may be by either deed plot or actual survey.

B. An actual field survey of the boundary lines of the tract being subdivided, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by monuments, as approved by the Planning Board, and shall be referenced and shown on the plat. The Planning Board may modify the requirement for a full field survey pursuant to Article VII, § 93-25, of this chapter.

C. Information concerning portions of the land within the subdivision subject to periodic flooding or in a wetlands area.

D. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.

E. All on-site sanitation and water supply facilities shall be designed to meet the minimum specifications of and shall be under the permit of the applicable state, county and town authorities.

F. The proposed subdivision name, Town of Harrietstown, Franklin County, New York.

G. The date, North point, map scale and name and address of the record owner and the subdivider.

§ 93-20. Preapplication submission requirements for major subdivision.

The preapplication sketch plan initially submitted to the Planning Board shall be based on Tax Map information or some similarly accurate base map at a scale of not less than two hundred (200) feet to an inch. The entire sketch plan shall be shown on one (1) sheet. The sketch plan shall show the following information:

A. A vicinity map showing the location of that portion of the tract which is to be subdivided, in relation to the entire tract, and the distance to the nearest street intersection. All streets shall also be shown within three hundred (300) feet of the applicant's property.

B. All existing structures, wooded areas, streams and other significant physical features, within the portion to be subdivided and within two hundred (200) feet thereof. If topographic contours are significant, contours shall also be indicated at intervals of not more than ten (10) feet. All elevations are to be referred to the United States Geological Survey datum with the location and description of the bench mark included.

C. A general statement of soil conditions.

D. The name of the owner and all of the adjoining property owners as disclosed by the most recent town assessment records. Property owners across the street also are to be shown.

E. The Tax Map sheet, block and lot numbers, as available from the Town Assessor's office.

F. All the utilities available and all streets which are either proposed, mapped or built.

G. The proposed pattern and numbers of lots (including lot width and depth), street layout, recreation areas, systems of drainage, sewerage and water supply within the subdivided area.

H. Information on all existing restrictions on the use of land, including easements, covenants or zoning district boundaries.

I. All portions of the land within the subdivision subject to periodic flooding, including wetlands areas.

§ 93-21. Submission requirements for major subdivision preliminary plat.

A. Six (6) copies of the preliminary plat certified by a licensed land surveyor and/or professional engineer at a scale of not more than one hundred (100) feet, but preferably not less than fifty (50) feet, to an inch shall be submitted at least ten (10) days prior to the regular meeting of the Planning Board.

B. The following additional information will be submitted for approval and shall constitute a preliminary plat:

(1) Information on existing site conditions (required):

(a) An actual field survey of the boundary lines of the tract to be subdivided, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by substantial monuments of such size and type as approved by the Town Planning Board and shall be referenced and shown on the plat.

(b) Street rights-of-way and widening of rights-of-way on the subdivision and within two hundred

(200) feet of its boundaries, including the name and right-of-way width and location; the type, width and elevation of surfacing; any legally established center-line elevations, including those at intersections and other critical points; culverts, etc.

(c) The location, width, identification, purpose and restrictions upon any other rights-of-way and easements on the subdivision.

(d) Any drainage structures on the subdivision and within two hundred (200) feet of its boundaries, including the types of structures and locations, invert elevations, gradients, types and sizes of all pipe and all other drainage structures where applicable, including the direction of flow.

(e) The location and size or capacity of all other utility structures, such as sewer, water and power lines on the subdivision and within two hundred (200) feet of its boundaries.

(f) As contours affect proposed public improvements, ground elevations on the tract shall be based on a datum plane approved by the designated Town Engineer. For land with slope that is less than approximately two percent (2%), spot elevations should be shown at all breaks in grade, along all drainage channels or swales and at selected points not more than one hundred (100) feet apart in all directions; for land that slopes more than two percent (2%), contours should be shown at intervals of not more than two (2) feet.

(g) Marshes, ponds, streams and all land subject to periodic or occasional flooding or similar unstable conditions on the subdivision or within two hundred (200) feet of its boundaries. Indicated shall be the location and the area covered indicating the apparent high-water line

on the date of the survey and the survey date and the maximum depth of the water at critical points.

(h) The location of rock outcrops, wooded areas, preservable specimen trees, structures and other significant existing features for the proposed subdivision area and within two hundred (200) feet thereof.

(i) Subsurface data in accordance with applicable state, county and town requirements, including the date, location and graphic representation of the findings for all test holes, including the location and results of percolation and other tests to ascertain subsurface soil, rock and groundwater conditions, and the depth of groundwater unless pits are dry at a depth of five (5) feet.

(2) Information on proposed site development:

(a) Streets.

[1] The names (to be checked prior to submission with the Town Clerk to avoid duplication).

[2] The width and location of any streets or public ways or places shown on the Official Town Map, within the area to be subdivided, together with street profiles of all streets or public ways proposed by the developer.

[3] Right-of-way widths.

[4] Any tentative center-line elevations at intersections and at principal changes in gradient.

[5] Any tentative center-line gradients shown in percent of slope.

[6] Plans and cross sections showing the proposed location and type of sidewalks; streetlighting standards; street trees; water mains; sanitary sewers and storm drains and the sizes and types thereof; the character, width and depth of pavements and subbase; and the location of any manholes, basins and underground conduits.

[7] Preliminary designs of any bridges which may be required.

(b) Lot layout.

[1] The lot lines and dimensions scaled to the nearest foot.

[2] The minimum building setback lines and dimensions and the suggested location of buildings and driveways.

[3] The lot numbers and lot areas calculated to the nearest square foot.

(c) Easements, parks, restricted areas and other improvements.

[1] The purpose and restrictions.

[2] Designation of areas or rights-of-way which are to be offered for public dedication or deeded to homeowners' associations or other private corporations with a clear indication of any proposed changes in grades and landscaping thereon. The Board may require special recreational improvements and planting of trees, shrubs, grass and other landscaping in all areas to be so dedicated.

(d) Preliminary stormwater drainage system plan.

[1] Drainage structures shall be shown on the preliminary plat indicating the approximate location, size and profile of proposed ditches, lines and culverts.

[2] The outline of watersheds tributary to drainage structures and their approximate area in acres, including those which extend beyond the boundaries of the subdivision.

(e) Preliminary water supply and sewage disposal systems. If public facilities are available or to be provided, the approximate location, size and profiles of proposed waterlines, valves, hydrants and sewer lines, including connection to existing facilities as required and provided in the Public Health Law; if private on-site facilities are provided, design data consistent with the requirements of Article IV, § 93-17, of this chapter.

(f) Easements. Where the topography is such as to make difficult the inclusion of any of the required facilities and improvements within the public areas as laid out, the preliminary plat shall show the boundaries or proposed permanent easements over or under private property.

(g) Covenants or deed restrictions. A copy of all such covenants or deed restrictions as are intended to cover all or part of the tract.

(h) Temporary stakes or markers. The Planning Board may require the location of temporary stakes or markers adequate to enable the Planning Board to locate readily and appraise the basic layout in the field, including markers at the corners of the tract. Unless the subdivision is adjacent to an exiting street intersection the distance along a street from

one (1) corner of the property to the nearest existing street intersection shall be shown.

§ 93-22. Submission requirements for major subdivision final plat.

A. Eight (8) copies of the final plat certified by a licensed land surveyor and/or a professional engineer, at a scale of not more than one hundred (100) feet, but preferably not less than fifty (50) feet, to an inch, shall be submitted at least ten (10) days prior to the regular meeting of the Planning Board.

B. To the extent applicable, the following information will be submitted for approval and shall constitute a final plat:

(1) A lot map of the entire subdivision shall be the same as that required on the preliminary plat, with the following additions:

(a) Lot layout.

[1] Number identification by a suitable system of consecutive numbers circled and related to the Town Tax Maps.

[2] The lot lines, with accurate dimensions to the nearest tenth of a foot bearing to the nearest five (5) seconds.

[3] The minimum building setback lines dimensioned.

(b) Special parcels.

[1] A description of the proposed action and use, including a note wherever an offer of dedication is being made. For any land which is reserved by the developer or to a homeowners' association, there shall be submitted with the subdivision plat copies of agreements or other documents showing

the manner in which such areas are to be maintained and the provisions made therefor.

[2] The boundary lines, with accurate dimensions to the nearest tenth of a foot and bearings to the nearest five (5) seconds.

[3] The lot areas for each lot, measured accurately to the nearest square foot.

(2) Survey data.

(a) Accurate tract boundary lines with bearing and distances.

(b) The survey tie-in with accurate bearings and distances to the nearest established street monuments or other official monuments which are within reasonable distance of the property.

(c) Special district boundaries as affect the subdivision, referenced to the subdivision survey by accurate bearings and distances.

(d) The length of all straight lines, the deflection angles, radii, length of curves and central angles of all curves, tangent distances and tangent bearings for each street.

(e) Accurate dimensions to the nearest tenth of a foot.

(f) Monuments.

[1] The accurate location of all monuments (existing, proposed, or to be reset) shall be shown; and

[2] Monuments shall be of a type approved by the Planning Board and shall be set at all corners and angle points of the boundaries of the original tract to be subdivided; and at all street intersections, such

intermediate points as may be required. Monuments shall be located at the beginning and end of each curve along one (1) side of the street right-of-way.

(3) Improvement plan and profiles.

(a) The performance bond and required inspectors shall be based on these drawings, the final plat itself, this chapter and other applicable town specifications for such improvements and utilities.

(b) Unless a specific waiver is requested and granted, in writing, the proposed improvements and utilities shall be considered to comply specifically with this chapter and the other applicable town specifications for such improvements and utilities.

(c) The basic drawing layout requirements are the same as those required for the preliminary plat and shall also include rights-of-way, gradients and directional arrows downhill.

(d) The designs for waterlines, sewers, streets, bridges and drainage structures shall be prepared by a licensed professional engineer.

(e) The complete drainage system for the entire subdivision, with appropriate development staging for each of the final plat sections, shown graphically and related to all existing drainage features.

(f) Utility system requirements:

[1] Water supply and distribution.

[a] The location of the source on the property or, where piped in, the size of the supply main.

[b] The location and size of all distribution mains.

[c] The location of fire hydrants.

[d] The location of control valves.

[2] Sanitary waste disposal systems.

[a] Sanitary sewer system design shall be indicated in all cases where public or private sewer connections exist or are proposed.

[b] A typical lot layout indicating the location of the individual system, where appropriate, with reference to the house and the water supply, and the detailed drawing of any proposed sanitary waste disposal system.

[3] The location of the electric, telephone, cable television, gas and other energy-related lines.

(g) Profile drawing requirements:

[1] Drawings shall be prepared with a horizontal scale of one (1) inch equals fifty (50) feet and a vertical scale of one (1) inch equals ten (10) feet, unless otherwise approved by the Planning Board.

[2] All profiles shall show the existing natural grades, the typical cross section of existing or proposed roads and the center lines of intersecting roads and a system of survey stations.

[3] The center-line profile of all proposed roads with dimensions on vertical curves and notations as to gradient and critical elevations.

[4] Detailed plans for bridges, culverts or similar structures.

[5] The invert profile and location of all storm and sanitary drainage structures (manholes, catch basins, etc.) in street rights-of-way, drainage or other easements.

(4) Certifications.

(a) A certification of title showing that the applicant is the owner.

(b) Written offers of cession to the town for all public streets, rights-of-way and open spaces shown on the subdivision plat and copies of agreements or other documents showing the manner in which open spaces, title of which is reserved by the subdivider, are to be maintained. All offers of cession and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.

(c) A certificate by the designated Town Engineer certifying that the subdivider has compiled with one (1) or both of the following alternatives:

[1] All or part of the improvements have been installed in accordance with the requirements of this chapter and with the action of the Planning Board granting approval of the preliminary plat.

[2] A performance or equivalent security has been posted, available to the town in sufficient amount to assure completion of all required improvements.

(d) Protective covenants and other appropriate devices in a form for recording.

(e) Letters directed to the Chairman of the Planning Board and signed by a responsible

official or any governmental authority or district which must provide necessary utility service, approving the utility installation design and assuring that adequate service will be available to accommodate the needs of the subdivision. Assurance shall also be provided that the long-term ownership and maintenance of the utilities shall be provided in accordance with Article 12 of the Town Law or a similarly acceptable mechanism.

(f) Letters, in appropriate cases, directed to the Chairman of the Planning Board, signed by a responsible official of the State Department of Transportation or the Franklin County Highway Superintendent, approving proposed construction and access on state or county rights-of-way, respectively.

ARTICLE VI
Provisions For Clustering and Other Flexibility

§ 93-23. Application of § 281 of the Town Law.

Pursuant to a resolution of the Town Board, the Planning Board is empowered to modify applicable provisions of the Zoning Law[5] in accordance with the provisions of § 281 of the Town Law for the purpose of enabling and encouraging flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economic use of streets and utilities and to preserve the natural and scenic qualities of open lands, the following shall be the procedure and standards for clustering:

A. Request by subdivider. A subdivider may request the use of § 281 simultaneously with or subsequent to presentation of the sketch plan as per the procedure

[5] Editor's Note: See Ch. 106, Zoning.

described in Article II, § 93-5. Any submission subsequent to approval for a preliminary plat shall require a reapplication for sketch plat review.

B. Sketch plan. A subdivider shall present, along with a proposal in accordance with the provisions of § 281, a standard sketch plan which is consistent with all the criteria established by this chapter, including lots being fully consistent with the Zoning Law.[6]

C. Land for park, recreation, open space or other municipal purposes. If the application of this procedure results in a plat sketch showing land available for park, recreation, open space or other municipal purposes, directly related to the plan, then conditions as to ownership, use and maintenance of such lands as are necessary to assure the preservation of such lands for their intended purposes shall be set forth upon discussion with the Planning Board.

D. Plat submission. Upon determination that such sketch plan is suitable for the procedures under § 281 and upon subsequent resolution by the Planning Board authorizing the subdivider to proceed, a preliminary plat meeting all of the requirements of the resolution shall be presented to the Planning Board, and thereafter, the Planning Board shall proceed with the required public hearings and all other requirements of this chapter.

E. Filing and notation on Zoning Map. On the filing of a final plat in the office of the County Clerk, in which § 281 has been used, the subdivider shall file a copy with the Town Clerk, who shall make appropriate notations and reference thereto on the Town Zoning Map. The Secretary of the Planning Board shall notify the Building Inspector when such a plat is filed.

[6] Editor's Note: See Ch. 106, Zoning.

ARTICLE VII
Waivers, Modification and Review

§ 93-24. Waiver of specific improvements.

The Planning Board may waive, by specific resolution, subject to appropriate conditions and guarantees, for such period as it may determine, the requirements of this chapter relative to the provision and design of any or all required public improvements which, in its judgment of the special circumstances of a particular plat or plats, are not requisite to the interest of the public health, safety and general welfare of the town or are not appropriate because of the inadequacy or lack of connecting facilities adjacent to or in the proximity of the proposed subdivision.

§ 93-25. Modification of specific requirements.

Where the Planning Board finds that compliance with this chapter would cause unusual hardship or extraordinary difficulties because of exceptional and unique conditions of topography, access, location, shape, size, drainage or other physical features of the site, the minimum requirements of this chapter may be modified, by specific resolution of the Planning Board, to mitigate the hardship, provided that the public interest is protected and the development is in keeping with the general spirit and intent of these and other town regulations.

§ 93-26. Review of decisions of Planning Board.

A. Any officer, department, board or bureau of the town, with the specific approval of the Town Board, or any person or persons, jointly or severally aggrieved by any decision of the Planning Board concerning a plat decision, may bring a proceeding to review such decision in the manner provided by Article 78 of the Civil Practice Laws and Rules in a court of record on the ground that such decision is illegal in whole or in part. Such proceeding must be commenced within thirty (30) days

after the filing of the decision in the office of the Town Clerk.

B. Commencement of such proceeding shall stay all further proceedings upon the decision appealed from.

ARTICLE VIII
Miscellaneous Provisions

§ 93-27. Authority to sign subdivision plats.

The appropriate officers authorized to sign approved subdivision plats are the Chairman and the Clerk of the Planning Board or, in their absence, the Acting Chairman and the Acting Clerk.

§ 93-28. Plat void if revised after approval.

No changes, erasures, modifications or revisions shall be made in any subdivision plat after approval has been given by the Planning Board and endorsed, in writing, on the plat, unless said plat is first resubmitted to the Planning Board and such Board approves, in writing, any such modifications. In the event that any subdivision plat is recorded without complying with these requirements, the same shall be considered null and void; the Planning Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

§ 93-29. Conflict with other provisions.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements established by the Planning Board of the Town of Harrietstown for the subdivision of land and the provision of required improvements within the town. Whenever the requirements of this chapter are found to be at variance with the requirements of any other lawfully adopted rules, regulations, ordinances or

local laws, the more restrictive provisions or those imposing the higher standards, shall govern.

Chapter 106

ZONING

ARTICLE I
General Provisions

§ 106-1. Title; scope.

§ 106-2. Legislative authority; purposes.

ARTICLE II
Definitions and Word Usage

§ 106-3. Word usage.

§ 106-4. Definitions.

ARTICLE III
Zoning Districts; Zoning Map

§ 106-5. Districts established.

§ 106-6. Zoning Map.

§ 106-7. Interpretation of boundaries

§ 106-8. Flood Fringe Overlay District boundaries.

§ 106-9. General district regulations.

ARTICLE IV
Use Regulations

§ 106-10. Schedule of Use Regulations.

ARTICLE V
Area and Bulk Regulations

§ 106-11. Schedule of Area and Bulk Regulations.
§ 106-12. Existing lots of record.
§ 106-13. Height exceptions.
§ 106-14. Corner lots.
§ 106-15. Accessory structures.
§ 106-16. Distance between principal buildings.
§ 106-17. Transition yard requirements.

ARTICLE VI
Supplementary Regulations

§ 106-18. Applicability.
§ 106-19. General performance standards.
§ 106-20. Off-street parking and loading.
§ 106-21. Signs.
§ 106-22. Fences and walls.
§ 106-23. Excavations and soil removal.
§ 106-24. Development near streams and wetlands.
§ 106-25. Grading, filling and clearing of land.
§ 106-26. Development within the Flood Fringe Overlay District.
§ 106-27. Agricultural uses.
§ 106-28. Swimming pools.
§ 106-29. Home occupations.
§ 106-30. Outdoor storage on residential lots.
§ 106-31. Required screening.

§ 106-32. Sewage disposal systems.
§ 106-33. Solar access.
§ 106-34. Disposal areas.
§ 106-35. Garage sales.

ARTICLE VII
Special Permit Uses

§ 106-36. Applicability; conformance required.
§ 106-37. General standards.
§ 106-38. Specific standards.
§ 106-39. Uses within the Flood Fringe Overlay District.
§ 106-40. Applications.
§ 106-41. Effect of special permit approval.
§ 106-42. Expiration of permit.

ARTICLE VIII
Site Plan Review

§ 106-43. Applicability; referral to Planning Board.
§ 106-44. Sketch plan conference.
§ 106-45. Application for approval; contents.
§ 106-46. Planning Board review.
§ 106-47. Planning Board action.
§ 106-48. Reimbursable costs.
§ 106-49. Performance guaranties.
§ 106-50. Inspection of improvements.
§ 106-51. Integration of procedures.

ARTICLE IX
Innovative Development

§ 106-52. Residential cluster development.
§ 106-53. Planned resort development.

ARTICLE X
Nonconforming Uses, Structures and Bulk

§ 106-54. Applicability.
§ 106-55. Nonconforming uses.
§ 106-56. Noncomplying buildings.
§ 106-57. Restoration of damage.
§ 106-58. Termination of certain uses.

ARTICLE XI
Administration and Enforcement

§ 106-59. Building Inspector; right of entry.
§ 106-60. Powers and duties of Building Inspector.
§ 106-61. Penalties for offenses.

ARTICLE XII
Zoning Board of Appeals

§ 106-62. Board created; membership; organization.
§ 106-63. Powers and duties.
§ 106-64. General procedures.
§ 106-65. Appeals.

ARTICLE XIII
Amendments

§ 106-66. Amendments authorized; method.
§ 106-67. Initiation of amendments.
§ 106-68. Referral to Planning Board; report.
§ 106-69. Public notice and hearing.
§ 106-70. Referral to County Planning Board.
§ 106-71. Environmental quality review.
§ 106-72. Town Board action.

ARTICLE XIV
Miscellaneous Provisions

§ 106-73. Construal of provisions; greater restrictions to apply.
§ 106-74. Existing violations.
§ 106-75. Periodic review required.
§ 106-76. Superseded legislation.
Schedule of Use Regulations
Schedule of Area and Bulk Regulations

[HISTORY: Adopted by the Town Board of the Town of Harrietstown 5-22-1986 as L.L. No. 1-1986. Amendments noted where applicable.]

GENERAL REFERENCES

Unsafe buildings — See Ch. 43.
Fire prevention and building construction — See Ch. 49.
Flood damage prevention — See Ch. 53.
Housing standards — See Ch. 59.
Streets and sidewalks — See Ch. 91.
Water and sewers — See Ch. 102.

ARTICLE I
General Provisions

§ 106-1. Title; scope.

A. This chapter shall be known and may be cited as the "Zoning Law of the Town of Harrietstown, Franklin County, New York."

B. This chapter regulates the location, construction, alteration, occupancy and use of buildings and structures and the use of land within the unincorporated portion of the Town of Harrietstown; and for said purposes, divides the unincorporated portion of the Town of Harrietstown into zoning districts.

§ 106-2. Legislative authority; purposes.

This chapter is enacted pursuant to the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, to protect and promote public health, safety, comfort, convenience, economy, aesthetics and general welfare and for the following additional purposes:

A. To promote and effectuate the orderly physical development of the Town of Harrietstown in order to achieve the community's overall planning policy, including:

(1) The maintenance and rehabilitation of existing housing stock.

(2) The provision of increased housing opportunity for all persons, including the elderly, persons of low and moderate incomes and students.

(3) The encouragement of neighborhood business development.

(4) The promotion of the town as a tourist area, particularly by increasing recreational facilities and other tourist amenities.

(5) The protection of environmentally critical or highly suitable open space land from incompatible development.

(6) The encouragement of agricultural activities and conservation practices and uses throughout the community.

(7) The encouragement of industrial expansion and the location of new industries to the area.

(8) The creation and retention of employment opportunities.

B. To assure privacy for residences and to encourage the appropriate use of land in the community in order to conserve and enhance the value of property.

C. To protect the community against unsightly, obtrusive and noisome land uses and operations.

D. To generally maintain and enhance the present character and natural beauty of the Town of Harrietstown.

ARTICLE II
Definitions and Word Usage

§ 106-3. Word usage.

Unless otherwise expressly stated, the following terms shall, for the purposes of this chapter, have the meanings herein indicated.

A. Words used in the present tense include the future.

B. The singular number includes the plural, and the plural number includes the singular.

C. The word "lot" includes the word "plot."

D. The word "structure" includes the word "building."

E. The term "occupied" or "used," as applied to any building or land, shall be construed to include "arranged," "designed," "constructed," "altered," "converted," "rented," "leased" or "intended to be used or occupied."

F. The word "shall" is mandatory and not optional.

§ 106-4. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY STRUCTURE — A structure, the use of which is customarily incidental and subordinate to that of the principal building and which is attached thereto or is located on the same lot or premises. Except as stated herein, "accessory structures" are not for the purpose of human habitation and include such buildings as docks and boathouses, garages, garden or toolsheds, barns, swimming pools and playhouses and such elements as dish antennas and solar collectors. "Accessory structure" also includes a single guest cottage not for rent or hire and occupied not more than sixty (60) days annually that is incidental and subordinate to and associated with a premises on which a single-family dwelling is located.

ACCESSORY USE — A use, occupancy or tenancy which is customarily incidental and subordinate to the principal use, occupancy or tenancy and located on the same lot or premises.

ADDITION — Any extension or increase in the floor area or height of a building or structure.

ADIRONDACK PARK AGENCY ACT — Article 27 of the Executive Law of the State of New York, including any future amendments thereto.

ADIRONDACK PARK AGENCY or AGENCY — The Adirondack Park Agency created by § 803 of Article 27 of the Executive Law of the State of New York.

ADIRONDACK PARK or PARK — That land lying within the area described in § 9-0101 of the Environmental Conservation Law of the State of New York, including any future amendments thereto.

AGRICULTURAL SERVICE USE — Any milk processing plant, feed storage supply facility, farm machinery or equipment sales and service facility; any storage and processing facility for fruits, vegetables and other agricultural products or similar use directly and customarily related to the supply and service of an agricultural use.

AGRICULTURAL USE — Any management of any land for agriculture; any raising of fowl or cows, horses, pigs and other livestock; horticulture or orchards; including the sale of products grown or raised directly on such land, and including the construction, alteration or maintenance of fences, agricultural roads, agricultural drainage systems and farm ponds.

AGRICULTURAL USE STRUCTURE — Any barn, stable, shed, silo, garage, fruit and vegetable stand or other building or structure directly and customarily associated with agricultural use.

ALTERATION — Any change, rearrangement or addition to a building, other than repairs; any modification in construction or in building equipment or the moving of a building or structure from one location to another.

APARTMENT — A dwelling unit contained within a two-family or multifamily building.

AREA AND BULK REGULATIONS — The combination of controls which establish the minimum size of a lot and the maximum size of a building and its location on such lot.

ATTIC — That space within a building between the top of the uppermost floor construction and the underside of the roof.

AUTOMOBILE REPAIR FACILITY — Any area of land, including structures thereon, where any painting, rebuilding, reconditioning or collision services involving frame and fender straightening or repair or any dismantling or disassembly of mechanical, frame and exterior parts of automobiles or other vehicles occur.

BASEMENT — That space within a building that is partly below grade, which has more than half of its height, measured from floor to ceiling, above the average established curb level or finished grade of the ground adjoining the building.

BED-AND-BREAKFAST ESTABLISHMENT — A private dwelling in which at least one (1) and not more than four (4) rooms are offered for rent for transient occupancy, in which overnight lodging and breakfast are offered to such occupant and in which no public restaurant is maintained.

BEGINNING OF CONSTRUCTION — The incorporation of both labor and materials within the footings or foundation of a building or group of buildings.

BILLBOARD — See the definition of "sign, advertising."

BOARDING- or LODGING ROOMING HOUSE — A private dwelling in which at least two (2) but not more than six (6) rooms are offered for rent, whether or not table board is furnished to lodgers, and in which no transients are accommodated and no public restaurant is maintained.

BOARD OF APPEALS — The Zoning Board of Appeals of the Town of Harrietstown as provided for in Article XII of this chapter.

BUFFER ZONE — A strip of land, identified in this chapter established to protect one type of land use from another with which it is or may be incompatible.

BUILDABLE AREA — The space remaining on a lot after the minimum open space requirements (coverage, yards, setbacks) have been met.

BUILDING — A structure wholly or partially enclosed within exterior walls or within exterior and party walls and a roof, affording shelter to persons, animals, property or business activity. See the definition of "structure."

BUILDING, ACCESSORY — See the definition of "accessory structure."

BUILDING COVERAGE — The amount of land covered or permitted to be covered by a building or buildings, measured in terms of a percentage of the total lot area, such coverage to be measured on a horizontal plane at mean grade level, and excludes uncovered porches, terraces and steps.

BUILDING GROUP — A group of two (2) or more principal buildings and any buildings accessory thereto, occupying a lot in one (1) ownership and having any yard in common.

BUILDING INSPECTOR — That town employee appointed by the Town Board and charged with the responsibility of administering and enforcing this chapter as well as the New York State Uniform Fire Prevention and Building Code and related regulations.

BUILDING LINE — The line, established by law, ordinance or regulation, beyond which no part of a building, other than parts expressly permitted, shall extend.

BUILDING, PRINCIPAL — A building in which is conducted the main or principal use of the lot on which said building is located.

BUILDING, SEMIDETACHED — A building attached by a party wall to another building normally of the same type on another lot but having one (1) side yard.

CAMP — Any parcel of land on which are located two (2) or more cabins, tents, shelters or other accommodations of a design or character suitable for seasonal or other more or less temporary living purposes, including a summer colony, resort and day camp, but not including a trailer park, boardinghouse, hotel or motel.

CAR WASH — Premises regularly used for washing, cleaning or polishing motor vehicles for compensation.

CELLAR — That space within a building that is partly or entirely below grade, which has more than half of its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.

CENTRAL WATER — A water supply system serving five (5) or more dwelling units and approved by the Town of Harrietstown and the New York State Health Department for either private or public operation.

CERTIFICATE OF OCCUPANCY — Official certification issued by the Building Inspector that a premises conforms to the provisions of the Zoning Law, the New York State Uniform Fire Prevention and Building Code and other applicable regulations and may be legally used or occupied; may also be referred to as a "certificate of use."

CESSATION OF USE — A use shall be determined by the Building Inspector to have ceased when it has been discontinued either temporarily or permanently, whether with the intent to abandon such use or not.

CLEAR-CUTTING — Any cutting of eighty percent (80%) or more of all trees over six (6) inches in diameter at breast height over any ten-year cutting cycle.

CLINIC — The group practice of medicine or dentistry for humans, including assistants and laboratories, but not including inpatient care or an operating room for major surgery.

CLUB, MEMBERSHIP — The premises of an organization of persons who meet periodically to promote some nonprofit social, educational, athletic, service or recreational objective and who cater exclusively to members and their guests, with no vending, merchandising or commercial activities conducted except as required generally for the membership and purposes of the club.

CLUSTER DEVELOPMENT — A development pattern in which uses are grouped or clustered through a density transfer within a particular development rather than spread evenly throughout a parcel as in conventional lot-by-lot development. See § 281 of the Town Law and Article IX of this chapter.

COMMERCIAL USE — Any use involving the sale or rental or distribution of goods, services or commodities, either retail or wholesale, or the provision of recreation facilities or activities for a fee.

COMMERCIAL VEHICLE — A vehicle of more than one-ton capacity, used for the transportation of persons or goods primarily for gain, or a vehicle of any capacity carrying a permanently affixed sign exceeding one (1) square foot in area or lettering of a commercial nature.

COMMON SEWER — A sewage disposal system serving five (5) or more dwelling units and approved by the Town of Harrietstown and the State Department of Environmental Conservation for either private or public operation.

COMMUNITY AREAS — Those areas intended for use or enjoyment by all residents of a development, including driveways, roadways, parking areas, walkways, landscaped areas, open space and recreation areas.

COMMUNITY RESIDENCE — A facility for mentally disabled persons as defined by the Mental Hygiene Law and as regulated by the provisions of the New York State Uniform Fire Prevention and Building Code.

COMPREHENSIVE PLAN — See the definition of "Master Plan."

CONDOMINIUM — Individual ownership of a dwelling unit within a multiple dwelling, exclusive of the land underlying said structure.

CONTRACTOR'S YARD — Any space, whether inside or outside a building, used for the storage or keeping of construction equipment, machinery or vehicles or parts thereof which are in active use by a construction contractor.

CONVALESCENT HOME — See the definition of "nursing home."

CONVERSION — A change in use or occupancy of a building, generally by alteration or by other reorganization as to increase the number of families or dwelling units in a structure.

COTTAGE OR CABIN DEVELOPMENT — Any parcel of land on which are located two (2) or more cottages, cabins or other accommodations of a design or character suitable for seasonal or other temporary living purposes, including a summer colony and resort, but not including a trailer park, boardinghouse, hotel or motel.

DAY CAMP — Nonovernight camp providing recreation, arts and crafts and other activities for preschool-age participants, limited to summer and other school vacation periods.

DENSITY — The ratio of lot area per family or dwelling unit on a lot.

DEVELOPMENT — Any activity, other than normal agricultural, conservation or forest management activity, which materially affects the existing condition of land or improvements, including but not limited to:

A. Removal of trees or other natural cover.

B. Substantial excavation or deposit of earth or other fill, including alteration in the banks of any stream or body of water.

C. Construction, reconstruction, alteration or demolition of any improvement.

D. Dumping or parking of any object or material, whether mobile, liquid or solid.

E. Commencement of any use of the land or improvements and any change in its type or intensity.

F. Commencement of any noise, light, smoke or other emission and any change in its type or intensity.

DISTRICT or ZONING DISTRICT — An area, section or zone of the town described on the Zoning Map contained within this chapter[1] and within which uniform requirements regulate the use of land and the height, bulk, density and setback of structures.

DORMITORY — A building or portion thereof used for sleeping purposes in connection with a school, college or other institution.

DRIVE-IN ESTABLISHMENT — A premises constructed to cater to the motoring public, whether or not serving pedestrians as well as automobile trade, and used for the sale to the public of any product and providing curb or window service.

DRIVE-IN MOVIE — An open lot or part thereof, with appurtenant facilities, devoted primarily to the showing of motion pictures on a paid admission basis to patrons seated in automobiles or on outdoor seats.

DRIVEWAY — A private access route directly serving a parking area or serving parking spaces not directly

[1] **Editor's Note: The Zoning Map is on file and available for inspection in the office of the Town Clerk.**

serving more than two (2) dwelling units and not providing a route for through traffic.

DWELLING — A building designed or used principally as the living quarters for one (1) or more families.

DWELLING, MULTIPLE — A detached, semidetached or attached building or portion thereof containing three (3) or more dwelling units.

DWELLING, ONE-FAMILY — A detached building containing one (1) dwelling unit only.

DWELLING, ROW OR ATTACHED — A one-family dwelling with party walls separating it from adjacent units on both sides, with each having separate entrances from the outside.

DWELLING, SEASONAL — A detached building, other than a mobile home, trailer or other mobile unit, providing complete housekeeping facilities for seasonal or non-year-round occupancy for one (1) family.

DWELLING, TWO-FAMILY — A detached or semidetached building containing two (2) dwelling units only.

DWELLING UNIT — A building or entirely self-contained portion thereof containing complete housekeeping facilities for only one (1) family, including any domestic servants employed on the premises, and having no enclosed space (other than vestibules, entrances or other hallways or porches) or cooking or sanitary facilities in common with any other "dwelling unit." A boardinghouse, dormitory, motel, inn, nursing home, fraternity or sorority or other similar building shall not be deemed to constitute a "dwelling unit."

ENFORCEMENT OFFICER — See the definition of "Building Inspector."

EXCAVATION — Any extraction from the land of more than twenty (20) cubic yards of sand, gravel, clay, shale, rock or topsoil or other natural mineral deposits.

FAMILY — Either:

A. One (1) person or two (2) or more persons related by blood, marriage or adoption.

B. Not more than five (5) persons not necessarily related by blood, marriage or adoption and, in addition, any domestic servants or gratuitous guests who live together in a single dwelling unit and maintain a common household.

FARM — Any parcel of land containing at least ten (10) acres which is used for gain in the raising of agricultural products, livestock, poultry and dairy products. The term "farm" includes necessary farm structures within the prescribed limits and the storage of equipment used as part of the farm operation. The term "farm" specifically excludes the raising of fur-bearing animals, riding academies, livery or boarding stables and dog kennels.

FENCE — An unroofed enclosing structure erected for the purpose of preventing passage or view.

FLOOD HAZARD BOUNDARY MAP (FHBM) — The Official Map of the Town of Harrietstown on which the Federal Insurance Administration has delineated the boundaries of the special flood hazard area. The "FHBM" is replaced by the FIRM when the latter becomes effective.

FLOODING, AREA OF SHALLOW — A designated AO or VO Zone shown on the town's Flood Insurance Rate Map (FIRM) with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

FLOOD INSURANCE RATE MAP (FIRM) — The Official Map of the Town of Harrietstown on which the Federal Insurance Administration has delineated both the special flood hazard areas and the risk premium zones.

FLOOD INSURANCE STUDY — The official report of the Federal Insurance Administration for the Town of Harrietstown showing flood profiles and water surface elevations of the base flood and including a Flood Boundary and Floodway Map (FBFM) depicting a regulatory floodway for riverine areas.

FLOOD, ONE-HUNDRED-YEAR OR BASE — The highest level of flood that, on the average, is likely to occur once every one hundred (100) years (i.e., that has a one-percent chance of occurring each year).

FLOODPLAIN AREA WITH SPECIAL FLOOD HAZARDS — Maximum area of the floodplain that, on the average, is likely to be flooded once every one hundred (100) years (i.e., that has a one-percent chance of being flooded every year). It includes the area shown on the FHBM as Zone A and on the FIRM as Zone A, AO, AH, A1 to A30, A99, V and V1 to V30.

FLOODPLAIN or FLOOD-PRONE AREA — A land area adjoining a river, stream, watercourse or lake, which is likely to be flooded.

FLOODPLAIN MANAGEMENT — The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness measures, flood control works and land use and development control measures.

FLOODPROOFING — Any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures, and contents of buildings.

FLOOD PROTECTION ELEVATION — The one-hundred-year flood elevation, plus one (1) additional foot of elevation.

FLOODWAY — The channel of a river or other watercourse and the adjacent land areas required to carry and discharge a flood of a given magnitude without

cumulatively increasing the water surface elevation more than the designated height shown in the Town of Harrietstown's Flood Insurance Study.

FLOOR AREA — The sum of the gross horizontal area of the floor or floors of a building as measured from the exterior faces of exterior walls or from the center line of walls separating two (2) buildings. Floor space shared in common with other dwelling units or used for storage purposes or the operation and maintenance of the building shall not be included in computing "floor area."

FLOOR AREA, LIVABLE — The sum of the gross horizontal area of a dwelling unit measured from the exterior walls or from the center of a party wall, excluding roof, cellar and garage. "Livable floor area" shall include spaces such as utility rooms, bathrooms, closets, hallways and attic space having a clear height of at least six (6) feet from the finished floor level to the pitch of roof rafter, with a clear height of seven (7) feet six (6) inches from the finished floor level to the ceiling level over fifty percent (50%) of the area of such attic space.

FORESTRY USE — Any management, including logging, of a forest, woodland or plantation and related research and educational activities, including the construction, alteration or maintenance of wood roads, skidways, landings, fences and forest drainage systems.

FORESTRY USE STRUCTURE — Any barn, shed, garage, research, educational or administrative building or cabin directly and customarily associated with forestry use.

FRONTAGE, LOT — That side of the lot coincident with the street line. A corner lot shall be considered to have two (2) such "frontages."

GARAGE, PRIVATE — An enclosed space for the storage of one (1) or more vehicles, provided that no business, occupation or service is conducted for profit therein nor

space therein for more than one (1) car is leased to a nonresident of the premises.

GARAGE, PUBLIC — Any garage, other than a private garage, available to the public, operated for gain and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

GARAGE SALE — The temporary sale of used household items on a residential premises; also referred to as "yard sale," "barn sale" or "tag sale."

GASOLINE STATION — Any area of land, including structures thereon, that is used or designed to be used for the sale of gasoline or oil or other motor vehicle fuel and which may include facilities for lubricating, washing, cleaning or otherwise servicing motor vehicles, but not including the painting or major repair thereof or the use of mechanical car washing equipment. The term "gasoline station" may also include a quick-stop retail food store, provided that the store is an integral part of the "gasoline station."

GRADE, FINISHED — The elevation at which the finished surface of the surrounding lot, either natural or upon completion of any change in contour, intersects the walls and supports of a structure, which grade shall not expose less than eight (8) inches of the foundation.

GUEST COTTAGE — See "accessory structure."

GUEST ROOM — A room occupied or intended, arranged or designed for occupancy by one (1) or more guests for sleeping purposes and for which remuneration is required.

HABITABLE SPACE — Space occupied by one (1) or more persons for living, sleeping, eating or cooking. Bathrooms, closets, halls, storage or utility spaces and similar areas are not classified as "habitable space."

HEIGHT, BUILDING — The vertical distance measured from the average elevation of the finished grade along the side of the building with the lowest finished grade to the highest point on the coping of a flat roof, to the deckline of mansard roofs and the average height between eaves and ridge for gable, hip and gambrel roofs, but not including chimneys, spires, towers, elevator penthouses, tanks and similar projections occupying an aggregate area of less than eighty (80) square feet or ten percent (10%) of the roof area, whichever shall be less.

HOME OCCUPATION — Any personal service, professional service or business use conducted entirely within a dwelling or customary accessory structure and carried on by the residents thereof, which use is clearly incidental and secondary to the use of the property for residential purposes and does not change the residential character thereof. For purposes of this chapter, a "home occupation" is further defined as being fully consistent with the provisions of Article VI herein and may include, within limits therein described, the home office of a contractor or similar businessperson.

HOMEOWNERS' ASSOCIATION — An organization of residential property owners residing within a particular development whose major purpose is to preserve, maintain and provide community areas, facilities and services for the common enjoyment of the residents.

HOSPITAL — A building containing beds for four (4) or more patients and used for the diagnosis, treatment or other care of ailments and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

HOTEL — A building or any part thereof which contains living and sleeping accommodations for transient occupancy and has a common exterior entrance or entrances and which may contain one (1) or more dining rooms.

INDUSTRIAL USE — Any manufacturing, production or assembly of goods or materials, including any on-site waste disposal area directly associated with an industrial use. This term does not include mineral extractions, private and commercial sand and gravel extraction, sawmills, chipping mills, pallet mills and similar wood-using facilities.

JUNKYARD — An area of land, with or without buildings, used for or occupied by a deposit, collection or storage, outside a completely enclosed building, of used or discarded materials such as wastepaper, rags, scrap material or used building materials, house furnishings, machinery or parts thereof, with or without the dismantling, processing, salvage or sale or other use or disposition of the same.

JUNKYARD, MOTOR VEHICLE — An area of land, with or without buildings, used for or occupied by a deposit, collection or storage, outside a completely enclosed building, of used or discarded motor vehicles or parts thereof, with or without the dismantling, wrecking, salvage, sale or other use or disposition of the same. A deposit, collection or storage on a lot of two (2) or more motor vehicles no longer in condition for legal use on the public highways, or parts thereof, for one (1) month or more in a residential district or for three (3) months or more in any nonresidential district shall constitute a "motor vehicle junkyard."

KENNEL — Any place at which there are kept four (4) or more dogs more than six (6) months of age or any number of dogs that are kept for the primary purpose of sale or for the boarding, care or breeding for which a fee is charged or paid.

LANDFILL — A lot or land area used primarily for the disposal or abandonment, burial, burning or any other means, and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.

LIVESTOCK — Any four-legged domestic-type farm animal, including but not limited to horses, cows, beef cattle, sheep or goats.

LOT — A parcel of land having defined boundaries and considered as a unit, devoted to a specific use or occupied by a structure or group of structures that are united by a common interest, use or ownership and including customary accessory structures, uses, open spaces and yards.

LOT AREA — The total area of a lot within lot lines.

LOT, CORNER — A lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five degrees (135°). The point of intersection of the street right-of-way lines is the corner.

LOT COVERAGE — The permissible percentage of lot area which may be covered by buildings, including covered porches and accessory buildings.

LOT DEPTH — The minimum horizontal distance from the street line of a lot to the rear lot line of such lot, measured in the general direction of the side lot lines.

LOT LINE — Line dividing one premises from another or from a street or other public space.

LOT OF RECORD — A legally existing lot at the time of adoption of this chapter, duly filed and recorded in the Franklin County Clerk's office as either an individual parcel of land or part of an approved subdivision.

LOT WIDTH — The minimum horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines or the width of a lot measured along the rear line of the required front yard.

MASTER PLAN — A document or series of documents prepared and adopted by the Town Planning Board

setting forth policies for the future growth and development of the town. Such "plan" may be officially adopted by the Town Board and satisfies the requirements of § 263 of the Town Law.

MINING — See "excavation."

MIXED OCCUPANCY — Occupancy of a building or premises in part for one use and in part for some other use not customarily accessory to the first use.

MOBILE HOME — Any vehicle or combination thereof used, designed for use or capable of being used as sleeping or living quarters, either propelled by its own power or the power of another vehicle to which it may be attached. Any addition to such "mobile home" shall, for the purposes of this chapter, be deemed to be part of such "mobile home."

MOBILE HOME PARK — Any lot, parcel or tract of land or portion thereof, together with the open space and facilities required by this chapter, used, designed or maintained and having mobile home spaces, as defined herein, held out for hire or lease to accommodate mobile homes, as defined herein.

MODULAR OR MANUFACTURED HOME — A factory-built dwelling transported to the site and permanently attached to the same.

MOTEL — A building or group of buildings containing individual living and sleeping accommodations for hire, each of which is provided with a separate exterior entrance and one (1) or more parking spaces and which is offered for rental and used principally by motor vehicle travelers. The term "motel" includes but is not limited to every type of similar establishment known variously as an "auto court," a "motor hotel," "motor court," "motor inn," "motor lodge," "tourist court," "tourist cabins" or a "roadside hotel."

NIGHTCLUB — A drinking establishment which includes an area in which patrons may dance or which

provides live entertainment other than by a single instrumental musician.

NONCOMPLYING BUILDING OR USE — An existing building or use which contains a use permitted in the district in which it is located but which does not conform to the district regulations for lot area, width or depth; front, side or rear yards; maximum height; lot coverage; or minimum livable floor area per dwelling unit after the enactment or amendment of this chapter.

NONCONFORMING USE — An existing use which does not conform to the applicable use regulations for the district in which such use is located after the enactment or amendment of this chapter.

NUISANCE — A condition that interferes with the use or enjoyment of property, endangers personal health or safety or is offensive to the senses.

NURSERY SCHOOL — Any premises, however designated, which operates on a regular basis to provide care or instruction for five (5) or more children under six (6) years of age. The term "nursery school" shall include a kindergarten, day nursery and day-care center.

NURSING HOME — Premises which provide lodging, meals and continuing nursing care for compensation to convalescent or chronically ill persons. The term "nursing home" shall include a convalescent home and a rest home.

OCCUPANCY — Use of a building, structure or premises.

OCCUPANCY LOAD — The maximum number of persons permitted to occupy a building or portion thereof based upon standards contained in the New York State Uniform Fire Prevention and Building Code.

OPEN AREA, REQUIRED — That area of a lot which shall be a properly maintained combination of natural,

not artificial, lawn, trees, shrubs and other plant material; also known as "minimum open space."

OWNER — Owner of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, a receiver, executor, trustee, lessee or other person, firm or corporation in control of a building.

PARK AND RECREATION AREAS, PUBLIC — Land owned or leased by an agency of the federal, state or local government used for recreation or conservation purposes, such as forest preserves, scenic preservation areas, game preserves and refuge areas; fish hatcheries, camping grounds and campsites; fishing and hunting camps, hiking trails, cabins and lean-tos; riding stables and trails; boating facilities, bathing, swimming and beach areas; playgrounds, stadiums and arenas for games and sports; winter sports areas; scenic overlooks, chair lifts and other scenic rides; picnic areas; golf courses; amphitheaters and other performing arts facilities; sites for historical monuments and markers; and related service buildings, including those for dining and refreshments, roads, trails, automobile parking areas and signs of an informational, directional and identificational nature.

PARKING LOT — Land which is open or semienclosed by structures and which is used to provide four (4) or more off-street parking spaces.

PARKING SPACE, OFF-STREET — A space, not less than one hundred eighty (180) square feet excluding driveways or access drives, which is out of the public right-of-way and is available and adequate for the parking of one (1) motor vehicle.

PARK, PRIVATE — Land, including related water area, privately owned and/or leased by an individual, association or other recognized organization or membership group, used for restricted camp, cottage and dwelling sites individually owned or leased and having

standards generally equivalent to those in an R-2 (Shorefront Residential) District, and related facilities and services such as a clubhouse, rental guest cottages, dining and refreshment facilities and recreational facilities.

PERFORMANCE STANDARDS — Regulations for the control of dangerous or objectionable elements as described in § 106-19 of this chapter.

PERMITTED USE — A specific use to which land, lots, buildings or structures may be used, occupied or maintained under this chapter as a matter of right.

PLANNING BOARD — The Planning Board of the Town of Harrietstown.

PREMISES — A lot, plot or parcel of land, together with all structures and uses thereon.

PROHIBITED USE — Any use which is not listed as a special, permitted or accessory use in the Schedule of Use Regulations[2] shall be considered a prohibited use under this chapter.

PUBLIC UTILITY USE — Any public utility use, equipment or structure, including a municipal garage, which is not a major public utility use. A public utility does not include any use which is subject to the jurisdiction of the Public Service Commission pursuant to Article VII or Article VIII of the Public Service Law.

RECREATIONAL VEHICLE — Any vehicle or structure capable of being mounted on, attached to or towed with a hitch by a conventional automobile or light pickup truck and for which no special road travel permit is required and having a body width not exceeding eight (8) feet exclusive of appendages (i.e., doorknobs or handles, window- or doorsills, vents, etc.) and including travel trailers, camping trailers, pickup campers, motor houses

2 Editor's Note: The Schedule of Use Regulations is included at the end of this chapter.

and similar designations and intended for temporary or transient living and/or sleeping quarters as distinguished from those found in mobile homes, as defined in these regulations.

RECREATION AREA, PRIVATE — Land, including related water areas, privately owned and/or leased by a club, association, lodge or other recognized organization or membership group, used for recreational activities, including related facilities and appurtenances, for the benefit of members and guests and not primarily as a business enterprise and excluding all commercial recreation business and enterprises.

REPAIR — Replacement or renewal, excluding additions, of any part of a building, structure, device or equipment with like or similar materials or parts for the purpose of maintenance of such building, structure, device or equipment.

REQUIRED — Required by this chapter.

RESIDENTIAL — Relating to a building or any part of a building or group of residential buildings which contain living and sleeping accommodations for permanent occupancy; "residences" therefore include all one-family, two-family, multifamily, boardinghouses, fraternity and sorority houses. "Residences" shall not, however, include the following:

A. Transient accommodations, such as hotels, motels and hospitals.

B. That part of a building containing both residences and other uses which is used for any nonresidential uses, except those accessory uses customarily incidental to residences.

RIDING ACADEMY — Any establishment where horses are kept for riding, driving or stabling for compensation.

ROADSIDE STAND — A temporary structure designed, arranged or used for the display or sale of agricultural or

other products grown or produced only on the premises upon which such stand is located.

SCHEDULE OF USE REGULATIONS — The controls which enumerate the permitted principal, permitted accessory and special uses within each of the districts established by this chapter.

SETBACK — The minimum horizontal distance from the property line to any structure, roadway, parking area, accessory building or other such improvement on a lot, except necessary driveways.

SHORELINE — That line at which land adjoins the waters of lakes, ponds, rivers and streams within the town at mean high water.

SHORELINE BUILDING SETBACK — The shortest distance, measured horizontally, between any point of a building and the shoreline of any lake or pond and the shorelines of any river designated to be studied as a wild, scenic or recreational river in accordance with the Environmental Conservation Law or any river or stream navigable by boat, including canoes.

SHORELINE LOT WIDTH — The distance, measured along the shoreline, between the boundary lines of a lot as they intersect the shoreline of any lake or pond and the shorelines of any river designated to be studied as a wild, scenic or recreational river in accordance with the Environmental Conservation Law or any river or stream navigable by boat, including canoes.

SIGN — Any material, structure or device or part thereof composed of lettered or pictorial matter which is located out of doors or on the exterior of any building, including illuminated window signs over two (2) square feet in area located within three (3) feet of the window surface and intended to be viewed from the exterior of the building, displaying an advertisement, announcement, notice or name, and includes sign frames, billboards, signboards, painted wall signs,

hanging signs, illuminated signs, pennants, fluttering devices, projecting signs or ground signs, and shall include any declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person or business or cause when the same is placed in view of the general public. However, a "sign" shall not include any display of official court or public office notices nor any official traffic control device, nor shall it include the flag, emblem or insignia of a nation, political unit, school or religious group.

SIGN, ACCESSORY — A sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is affixed.

SIGN, ADVERTISING — A sign or structure which directs attention to an idea, product, business activity, service or entertainment which is primarily conducted, sold or offered elsewhere than upon the premises on which such sign is located or to which it is affixed. "sign, advertising" includes but is not limited to billboards.

SIGN, DIRECTIONAL — An off-premises sign directing the way to a place of business, public service or residence.

SIGN, FREESTANDING — A sign that is not affixed to a building and is so constructed to be an independent unit; included are pole signs, pylon signs and masonry wall types.

SIGN, ILLUMINATED — A sign illuminated by electricity, gas or other artificial light, either from the interior or exterior of the sign, and including reflective and phosphorescent light.

A. DIRECTLY ILLUMINATED — Incorporating any artificial lighting as an inherent part or feature of the sign.

B. INDIRECTLY ILLUMINATED — Incorporating artificial lighting which is either separated from or not an inherent part or feature of the sign itself.

SIGN, MULTIPLE — A sign placed upon a common support and which has more than one (1) face or surface.

SIGN, NONACCESSORY — See the definition of "sign, advertising."

SIGN, OBSOLETE — A sign that advertises a nonexistent product, place or event.

SIGN, PORTABLE — A sign, whether on its own trailer, wheels or otherwise, designed to be movable and not structurally attached to the ground, a building, a structure or another sign.

SIGN, PROJECTING — A sign which is attached to a building wall or structure and projects horizontally more than twelve (12) inches from the plane of such wall or structure, being perpendicular thereto.

SIGN, SURFACE AREA OF — The entire area within a single, continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between any adjacent elements of the same. However, such perimeter shall not include any structural or framing elements lying outside the limits of such sign and not forming an integral part of the display. All faces of the sign shall be counted in computing the area. Any neon tube, string of light or similar device shall be deemed to have a minimum dimension of one (1) foot.

SIGN, WALL — A sign attached directly to the wall of a building, parallel to said wall and having a visible edge or border extending not more than twelve (12) inches from the face of such wall.

SINGLE OWNERSHIP — Possession of land under single or unified control, whether by sole, joint, common or other ownership or by a lease having a term of not less

than thirty (30) years, regardless of any division of land into parcels for the purpose of financing.

SITE PLAN — That map or drawing and all related information submitted for review by the Planning Board in accordance with the requirements and procedure specified in Article VIII of this chapter.

SKI CENTER — Any trail or slope for skiing, including lifts, terminals, base lodges, warming huts, sheds, garages and maintenance facilities, parking lots and other buildings and structures directly and customarily related thereto.

SPECIAL USE — A use which is deemed desirable for the public welfare within a given district or districts but which is potentially incompatible with other uses provided therein. The use shall, therefore, be subject to approval by the Planning Board and to conditions set forth for such use as well as other applicable provisions of this chapter.

STORY — That part of any building, exclusive of cellars but inclusive of basements, comprised between the level of one (1) finished floor and the level of the next highest finished floor or, if there is no higher finished floor, then that part of the building comprised between the level of the highest finished floor and the top of the roof beams.

STORY, HALF — A story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.

STREET — A public or private right-of-way which provides vehicular access to abutting properties.

STREET, CENTER LINE OF — A line established as a center line of a street by the Town Board or any state, county or other official or public agency having jurisdiction thereof and shown as such on an officially adopted or legally recorded map; or, if there is no center line established or if there exists conflict among several

maps, the "center line of a street" shall be a line lying midway between the street or right-of-way lines thereof. When the street lines are indeterminate and pavement or a well-defined traveled way exists, the "center line" is assumed to be a line midway between the edges of such pavement or traveled way.

STREET LINE — The dividing line between a lot and a street right-of-way.

STREET WIDTH — The width of the right-of-way or the distance between property lines on opposite sides of a street.

STRUCTURE — A static construction or assembly of materials, the use or occupancy of which requires a fixed location on the ground or attachment to an object having such fixed location. "Structures" shall include, among others, buildings, stadiums, sheds, storage bins, reviewing and display stands, platforms, towers, walls, fences, solar collectors, dish antennas, swimming pools, gasoline pumps, billboards, signs and mobile dwellings. See the definition of "accessory structure."

SUBDIVISION — The division of any parcel of land into two (2) or more lots, plots, sites or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development. Such division shall include resubdivision of parcels of land for which an approved plat has already been filed in the office of the Franklin County Clerk and which is entirely or partially undeveloped.

SWIMMING POOL — Any outdoor pool, tub, tank, depression or excavation for the specific purpose of swimming or bathing that causes the retaining of water to a greater depth than eighteen (18) inches and having a surface of water greater than one hundred (100) square feet.

TOURIST HOME — A building where, for compensation, lodging or meals, or both, are provided or offered for transient guests.

TOWN BOARD — The Town Board of the Town of Harrietstown, Franklin County, New York.

TRAILER, CAMPING — A folding structure, mounted on wheels and designed for limited travel recreation and vacation use only.

TRAILER, HOUSE — See the definition of "mobile home."

TRAILER, TRAVEL — A vehicular, portable structure built on a chassis, designed as a temporary one-family dwelling for travel, recreation and vacation, having a body length not exceeding twenty-six (26) feet and a body width not exceeding eight (8) feet.

TRANSIENT — A person passing through or visiting for a brief stay, generally less than one (1) week.

USE — The specific purpose for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained.

VARIANCE — A modification of the use and/or area and bulk regulations of this chapter in an individual case where, due to specific facts and conditions peculiar to a particular property, literal application and strict enforcement would result in undue and unnecessary hardship or practical difficulty that would deprive the owner of reasonable use of the land or structures. Such unnecessary hardship or practical difficulty shall not be construed to include mere inconvenience or a desire to make more money.

VARIANCE, AREA — A variance from the area and bulk requirements or supplementary regulations of a related character (such as amount, size, location of design or access, off-street parking, landscaping or signs) to authorize on a specific lot a permitted use which could

not feasibly be established without relief from one (1) or more of the dimensional requirements pertaining to the district.

VARIANCE, USE — A variance from the use regulations to allow the establishment on a specific lot of a use otherwise prohibited in the district.

WETLANDS — Any land which is annually subject to periodic or continual inundation by water and commonly referred to as a "bog," "swamp" or "marsh."

YARD — An open space on the same lot, plot or parcel of land with a building or building group lying between the closest point of the front, rear or side wall of a building and the nearest lot line, unoccupied and fully open to the sky, except as otherwise provided by the specific provisions of this chapter.

YARD, FRONT — A yard generally extending across the principal street side (i.e., adjacent to the front lot line) of a lot measured between the side yard lines, the depth of which yard is the minimum horizontal distance between the street right-of-way line and the main building. In the case of a shoreline lot (i.e., a lake or river oriented parcel), the front and rear yards shall be reversed, with the "front yard" extending between the principal structure and the high-water mark.

YARD, REAR — A yard generally extending across the full width of a lot measured between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the principal building. In the case of a shoreline lot (i.e., a lake or river oriented parcel), the front and rear yards shall be reversed, with the "rear yard" extending between the principal structure and the street or access roadway.

YARD, SIDE — A yard between any lot line other than a street line or rear lot line and a line drawn parallel thereto and between the front and rear yards.

ZONING MAP — The map delineating the boundaries of the zoning districts which, along with the zoning text, comprises this chapter.[3]

ARTICLE III
Zoning Districts; Zoning Map

§ 106-5. Districts established. [Amended 10-15-1992 by L.L. No. 1-1992]

A. For the purpose of this chapter, lands within the unincorporated portion of the Town of Harrietstown, Franklin County, New York, are hereby divided into the following ten (10) zoning districts:

C-1	Conservation District
R-1	Rural Residential District
R-2	Shorefront Residential District
R-3	General Residential District
B-1	Retail Business District
B-2	General Business District
B-3	Resort Business District
I-1	General Industrial District
PRD	Planned Resort Development District
FW	Floodway District

B. Two (2) overlay districts are also hereby created:

FF-O	Flood Fringe Overlay District
PRD-O	Planned Resort Development Overlay District

(1) The Flood Fringe Overlay District has been specifically designated by the Federal Emergency Management Agency (FEMA) as a "floodplain area with special flood hazards that is likely to be flooded at least once every one hundred (100) years."

[3] Editor's Note: The Zoning Map is on file and available for inspection in the office of the Town Clerk.

(2) The Planned Resort Development Overlay Distric delineates those lands eligible for rezoning t Planned Resort Development District in accordanc with the objectives, criteria and procedure set fort in § 106-53 of this chapter.

§ 106-6. Zoning Map.

The location and boundaries of said districts are shown o the "Zoning Map, Town of Harrietstown." Said map, togethe with all explanatory matter thereon and all amendment thereto, is hereby adopted and is declared to be an appurtenan part of this chapter. Said map shall be kept up-to-date and shal be kept on file in the Town Clerk's office. A copy of said ma shall be available in the Building Inspector's office for publi review and use.

§ 106-7. Interpretation of boundaries

Where uncertainty exists with respect to the boundaries o any of the aforesaid zoning districts as shown on the Zoning Map,[4] the following rules shall apply:

A. Where district boundaries are indicated as approximately following the center lines or right-of-way lines of streets, highways, public utility easements or watercourses, said boundaries shall be construed to be coincident with such lines. Such boundaries shall be deemed to be automatically adjusted if a center line or right-of-way line of such street, highway, public utility or watercourse is moved a maximum distance of fifty (50) feet.

B. Where district boundaries are indicated as approximately following the town boundary line, property lines, lot lines or projections thereof, said

[4] Editor's Note: The Zoning Map is on file and available for inspection in the office of the Town Clerk.

boundaries shall be construed to be coincident with such lines or projections thereof.

C. Where district boundaries are so indicated that they are approximately parallel to the town boundary line, property lines, lot lines, right-of-way lines or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the Zoning Map or as shall be determined by use of the scale shown on the Zoning Map.

D. Where a district boundary line divides a single lot in a single or joint ownership of record at the time such line is established, the regulations for the less restricted portion of such lot may, at the owner's discretion and with the exception of the Floodway (FW) and Flood Fringe Overlay (FF-O) Districts, extend not more than thirty (30) feet into the more restricted portion, provided that the lot has street or highway frontage in the less restricted district.

E. Boundaries of the C-1 Conservation District are intended to coincide with the lines delineating the land within the Adirondack Park owned by the State of New York and identified as "forest preserve" under the administrative jurisdiction of the State Department of Environmental Conservation and any other lands owned by the State of New York under said Department's jurisdiction. Whenever any land in any other district shall be acquired by the State of New York and placed under the administrative jurisdiction of said Department of Environmental Conservation, the Town Board, upon receipt of official notice thereof from said Department, shall initiate proceedings for amendment to the Zoning Map to reclassify the acquired property to the C-1 District in accordance with the provisions of Article XIII of this chapter.

F. In all other cases, where dimensions are not shown on the Zoning Map, the location of the boundaries shown on

the map shall be determined by the use of the scale appearing thereon.

§ 106-8. Flood Fringe Overlay District boundaries.

The boundary of the Flood Fringe Overlay District (FF-O) is established herein as delineated on the most current edition (January 1985) of the appropriate Federal Insurance Administration Flood Hazard Boundary Map as issued for the Town of Harrietstown by the United States Department of Housing and Urban Development. Any revisions, amendments or successors thereto, including designation of a Floodway (FW) District, with all explanatory matter thereon, is hereby adopted and made part of this chapter. The latest edition of said map shall be kept on file in the offices of the Town Clerk and the Town Building Inspector for the use and benefit of the public. Upon receipt of any revision, amendment or successor to the Flood Hazard Boundary Map, the Town of Harrietstown shall provide public notice thereof and, to the extent practicable, notify affected property owners.

§ 106-9. General district regulations.

Except as hereinafter otherwise provided:

A. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, moved, altered, reconstructed or enlarged except in conformance with both the use regulations and the area and bulk regulations specified by this chapter for the district in which it is located.

B. No part of a yard or other open space required in connection with any building or use shall be included as part of a yard or other open space similarly required for another building.

C. No yard or lot existing at the time of the passage of this chapter shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots

created after the effective date of this chapter shall meet the minimum requirements established by this chapter.

D. No off-street parking or loading space required for one building or use shall be included as meeting, in whole or part, the off-street parking or loading space required for another building or use, except as otherwise provided for by this chapter.

E. No off-street parking or loading space shall be so reduced in area that it does not meet the requirements of this chapter.

F. Within each district, both the use regulations and the area and bulk regulations set forth by this chapter shall be considered minimum regulations and shall apply uniformly to each kind of building, structure or land.

ARTICLE IV
Use Regulations

§ 106-10. Schedule of Use Regulations. [Amended 10-15-1992 by L.L. No. 1-1992]

A. The general use regulations in each zoning district are set forth in the attached Schedule Of Use Regulations.[5] The schedule is supplemented, as appropriate, by other provisions of this chapter.

B. Any use which is not listed specifically or through similar use as a permitted, special permit or accessory use in the attached schedule may be considered in accordance with objectives of this chapter.

C. All permitted and accessory uses in the Planned Resort Development (PRD) District shall be established on a project-specific basis in accordance with the objectives, criteria and procedure set forth in § 106-53 of this chapter.

[5] Editor's Note: The Schedule of Use Regulations is included at the end of this chapter.

ARTICLE V
Area and Bulk Regulations

§ 106-11. Schedule of Area and Bulk Regulations. [Amended 10-15-1992 by L.L. No. 1-1992]

A. The general area and bulk requirements in each zoning district, except for the Planned Resort Development District, are set forth in the attached Schedule of Area and Bulk Regulations.[6] This schedule is supplemented, as appropriate, by other provisions of this chapter, including the supplementary regulations set forth in Article VI and the extraordinary standards for certain special permit uses stated in § 106-38 of this chapter.

B. The area and bulk requirements for the Planned Resort Development (PRD) District are established on a project-specific basis in accordance with the objectives, criteria and procedure set forth in § 106-53 of this chapter.

§ 106-12. Existing lots of record.

Nothing contained herein shall prohibit the use of an existing lot of record of less than the prescribed area, width or depth if such existing lot of record was owned individually or separate from any adjoining tract at the time of initial enactment of the Zoning Ordinance of the Town of Harrietstown on May 27, 1971, provided that all other provisions of this chapter are met and that said lot is individually described on a map or deed that was filed in the office of the Franklin County Clerk prior to May 27, 1971.

[6] Editor's Note: The Schedule of Area and Bulk Regulations is included at the end of this chapter.

§ 106-13. Height exceptions.

A. The height restrictions set forth in § 106-11, Schedule of Area and Bulk Regulations, shall not be applicable to the following:

(1) Flagpoles, radio or television antennas, transmission towers or cables, agricultural barns and silos and similar features, any of which shall be restricted to a maximum height of one hundred (100) feet above average finished grade at its base.

(2) A spire, belfry, chimney, skylight, water or cooling tower, parapet or railing, elevator, stair bulkhead, solar collector, air-conditioning unit or similar structure which, in their aggregate coverage, occupy no more than ten percent (10%) of the roof area of the building of which they are a part. Such structures shall be erected only to such minimum height as is necessary to accomplish the purpose for which they are intended.

B. No structure or other exception shall be used as a place for habitation or for advertising not otherwise authorized by this chapter.

§ 106-14. Corner lots.

A. Required front yards. On a corner lot, each street frontage shall be deemed a front street line, and the required yard along each such lot line shall be a required front yard. The Building Inspector, in consultation with the owner, shall decide which of the remaining yards shall be the required side yard and the required rear yard.

B. Obstructions at street intersections. At all street intersections, no obstructions to vision, such as a fence, wall, hedge, structure or planting, over three (3) feet in height shall be erected on any lot within the triangle formed by the intersecting street lines or their

projections where corners are rounded and a straight line joining said street lines at points which are fifty (50) feet distant from their point of intersection measured along said street lines and/or projections.

§ 106-15. Accessory structures.

A. The following architectural features and accessory structures may be located in any required yard, subject to the limitations stated herein:

(1) Ordinary projections of windowsills, belt courses, cornices, eaves and other architectural features; provided, however, that no such feature shall project more than three (3) feet into any required yard.

(2) Chimneys or pilasters.

(3) Open arbor or trellis.

(4) Any unroofed steps, patio or terrace not less than twenty (20) feet from the highway right-of-way nor less than ten (10) feet from any side or rear lot line, provided that the building to which the feature is accessory complies with the yard requirements of this chapter.

(5) An awning or movable canopy not to exceed twelve (12) feet in height nor extending more than eight (8) feet from the face of the building to which it is attached.

(6) A retaining wall, fence or masonry wall, except as limited by §§ 106-14 and 106-22 of this chapter.

(7) Open fire escapes on the side or rear of a building and extending not more than eight (8) feet into the required side or rear yard.

B. The following accessory structures may be located in any side or rear yard, subject to the limitations stated herein:

(1) A private in-ground or aboveground swimming pool not less than fifteen (15) feet from the side or rear lot line, in conformance with the requirements of § 106-28 of this chapter.

(2) A permitted accessory structure, as defined in § 106-4 of this chapter, provided that:

(a) No such structure shall exceed twenty (20) feet in height in any residential district.

(b) No such structure shall be set back less than ten (10) feet from any lot line.

(c) Not more than three (3) such accessory structures, other than a permitted sign or fence, of which no more than one (1) shall be either a private garage or guest cottage, shall be permitted on an individual lot in any residential district.

(d) All such structures in the aggregate shall not occupy more than twenty percent (20%) of any required yard.

(e) No such structure shall be closer to the fronting street than the principal building on the lot or a distance of thirty (30) feet, whichever shall be less.

C. A single portable accessory building with a maximum floor area of eighty (80) square feet may be installed or constructed and utilized without the issuance of a building permit or certificate of occupancy, provided that:

(1) It does not have a permanent foundation.

(2) It is not served by any utility, such as electricity, gas or plumbing.

(3) It does not exceed nine (9) feet in height.

(4) It is never used for human habitation.

(5) All other requirements of this chapter related to accessory buildings, including their location and number, are fully met.

D. Fences may be located in required yard areas where in full compliance with the standards provided in § 106-22 of this chapter.

E. In the case of a shoreline lot in any district, a boathouse or structure of similar use may be erected on the waterfront of such premises. Any such structure shall be subject to special permit review as prescribed by Article VII of this chapter. **[Amended 10-15-1992 by L.L. No. 1-1992]**

F. A single guest cottage may be located on a single-family residential premises, as defined within § 106-4 of this chapter, subject to special permit review as provided by Article VII of this chapter.

§ 106-16. Distance between principal buildings.

The minimum horizontal distance between any two (2) principal buildings located on a single lot shall be equal to the height of the taller of the two (2) buildings.

§ 106-17. Transition yard requirements.

A. Required side and rear yards. Where the side or rear yard of a lot abuts a side or rear yard of a lot in a more restricted district, there shall be provided along both sides of such abutting lot line or lines side or rear yards equal to those required in the more restricted district.

B. Required screening. Where a lot in a business or industrial district abuts a lot in a residential district, there shall be provided along the abutting side or rear lot line a wall, fence, compact hedge or landscaped strip of trees or shrubs designed to form a year-round visual screen not less than six (6) feet in height at the time of

installation. The screening shall be specifically reviewed by and subject to the approval of the Planning Board in accordance with Article VIII of this chapter, Site Plan Review.

ARTICLE VI
Supplementary Regulations

§ 106-18. Applicability.

The following supplementary regulations are applicable to all zoning districts within the Town of Harrietstown unless otherwise provided herein.

§ 106-19. General performance standards.

No use shall be permitted that does not conform to the following standards of use, occupancy and operation in addition to all relevant provisions of other local, state and federal laws:

A. Noise. No noise shall exceed an intensity, as measured from the boundaries of the lot where such use is situated, of the average intensity, occurrence and duration of the ambient noise of traffic at adjoining streets and roadways.

B. Atmospheric effluence. Excessive dust, dirt, smoke, odor or noxious gases beyond levels customarily associated with residential land uses shall not be disseminated beyond the boundaries of the lot where such use is located.

C. Glare and heat. No glare or heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated. Special efforts shall be required, such as the planting of vegetation and the installation of light shields, to alleviate the impact of light and glare on neighboring residential properties.

D. Industrial wastes. No solid or liquid wastes shall be discharged into any public sewer, common or private sewage disposal system, stream or on or into the ground, except in strict accordance with the standards approved by the New York State Department of Environmental Conservation or other duly empowered agency.

E. Radioactivity or electromagnetic disturbance. No activities shall be permitted which emit dangerous radioactivity beyond the building in which such activity is located or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.

F. Fire and explosion hazards. All activities involving and all storage of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting and fire suppression equipment and devices standard in the industry. All applicable requirements of the New York State Uniform Fire Prevention and Building Code, as well as the provisions of the National Fire Protective Association (NFPA) Code, shall be fully observed. All burning of such waste materials in open fires is prohibited.

G. Maintenance of developed lots. All open portions of any developed lot shall have adequate grading and drainage and shall be continuously maintained in a reasonable dust-free and erosion-resistant condition by suitable landscaping with trees, shrubs, grass or other planted ground cover or by paving with asphalt, concrete, crushed rock or by other material.

§ 106-20. Off-street parking and loading.

In all districts, at the time any new building or structure is erected, any existing building or structure is enlarged or any new or changed use of either land or structure is established,

off-street parking and loading space shall be provided in accordance with the minimum standards set forth below.

A. Required number of off-street parking spaces.

(1) The minimum number of spaces stated below shall be required in addition to one (1) space for each company vehicle associated with a business or light industrial use.

Type of Use	Number of Required Spaces
Residential uses:	
Single-family dwelling	2
2-family dwelling	3
Multifamily dwelling	1.5 per dwelling unit
Boarding- or rooming house or similar uses	1 per room available for rent, plus applicable space for occupants of dwelling unit
Mobile home park	2 per mobile home
General uses:	
Churches, meeting halls, membership clubs, auditoriums theaters or other places of public assembly not otherwise specified	1 per 5 seats or 60 square feet of seating area where fixed seating is not provided
Schools	1 per 12 classroom seats or the auditorium requirement as specified above, whichever is greater
Cultural facilities (museum, art gallery, library) or institutional/philanthropic uses	1 for each 400 square feet of gross floor area
Hospital, nursing or convalescent home	1 for each 2 beds
Cottage development	1 for each bedroom, plus necessary spaces for employees

Type of Use	Number of Required Spaces
Accessory uses:	
Home occupation	1 per 100 square feet of such use, plus 1 per outside employee or as provided below for the applicable business use, whichever shall be greater
Business uses:	
General or professional office	1 per 125 square feet of office floor area
Retail stores and businesses	1 per 150 square feet of retail floor sales and display area
Personal service establishments	3 per barber, beautician, or similar practitioner, plus 1 per employee
Medical clinic and related health service offices	6 per doctor or other professional, plus 1 per employee
Hotel or motel	1 per bedroom, plus necessary spaces for employees
Eating and drinking establishments	1 per 3 seats or 50 square feet of floor area available to patrons, whichever is greater, plus 1 per 100 square feet of outdoor service area
Funeral home	1 per 5 seats within public room areas
Bowling alley, billiard hall, golf course, tennis club or similar facility	6 per alley, table, tee, court or similar measure
Light industrial uses:	1 per employee on largest shift, plus necessary spaces for visitors and company vehicles

(2) For uses not specifically listed, the requirement shall be the same as for the most similar use listed as determined by the Planning Board at the time of special permit and/or site plan review, as provided for in Articles VII and VIII, respectively, of this chapter.

(3) In the case of a combination of uses on a single parcel, whether in a single building or group of buildings, the requirement for off-street parking spaces shall be the sum of the requirements for the various individual uses unless it can be established by the applicant that staggered hours of use would permit modification.

B. Design standards for off-street parking spaces.

(1) Areas which may be considered as meeting off-street parking space requirements may include a garage, carport or other properly developed area available for parking, not to include a public street.

(2) No parking area shall encroach on any portion of a required front yard or within fifteen (15) feet of any public right-of-way; open parking may, however, encroach on a required side or rear yard within three (3) feet of a property line, except that if abutting a residential district, a minimum separation of ten (10) feet shall be maintained. Curbs or wheel stops shall be located at least three (3) feet behind any sidewalk area to prevent vehicular overhang.

(3) In any residential district, required parking spaces shall be fully provided in the side or rear yard of the same lot and shall not encroach on any required front yard.

(4) In all districts, each parking space provided shall be at least nine (9) feet wide and twenty (20) feet in length. Each space shall have direct and usable

driveway access to a public street and adequate maneuvering area between spaces.

(5) All parking areas shall be suitably graded and drained. Except for one- or two-family dwellings, parking lot surfacing requirements shall be established by the Planning Board under site plan review, as provided by Article VIII of this chapter, with particular consideration given to the number of vehicles accommodated and to the intensity and season of use.

(6) With the exception of driveways for one- or two-family residences, all off-street parking areas shall be designed to eliminate the need to back out onto the public street or highway.

C. Required off-street loading berths. Off-street loading which is designed logically, conveniently located for bulk pickups and deliveries, scaled to delivery vehicles anticipated and accessible to said vehicles when required off-street parking spaces are filled, shall be considered for all commercial and light industrial uses and provided as deemed necessary by the Planning Board during site plan review in accordance with Article VIII of this chapter. In general, every building used for business or light industrial use with a gross floor area of ten thousand (10,000) square feet or more shall have provided and maintained in the same lot with such building at least one (1) off-street loading space, plus one (1) additional such space for each additional twenty thousand (20,000) square feet or major fraction thereof of gross floor area. Such loading space shall be in addition to other off-street parking space and shall not be located in front of the building if the commercial or light industrial use is located opposite or adjoining a residential district.

§ 106-21. Signs.

No sign shall be erected, altered, relocated or maintained in any zoning district within the Town of Harrietstown, except in accordance with the provisions stated herein.

A. General standards. Any sign or use of signs, whether temporary, permitted or directional, shall conform to the following general standards:

(1) Any sign or use of signs not specifically allowed by provision of these regulations is prohibited, including but not limited to billboards, multiple-faced signs and moveable or portable signs.

(2) No sign shall be located in such a way as to interfere with driver vision of other traffic.

(3) Any illuminated sign or lighting devices shall employ only lights emitting a light of constant intensity, and no sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights. In no event shall an illuminated sign or lighting device be so placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.

(4) No projecting sign shall be erected or maintained from the front or face of a building a distance of more than twelve (12) inches, except as otherwise provided herein, such as those projecting from the face of a theater or motel marquee, as discussed in § 106-15 of this chapter. Any projecting or freestanding sign which projects into or above any pedestrian right-of-way or sidewalk shall have clearance of not less than eight (8) feet above the sidewalk or surrounding ground level. No projecting or freestanding sign shall be permitted to project

into or above any public driveway or thoroughfare for vehicular travel.

(5) No sign shall be placed on the roof of any building.

(6) No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners or other similar moving, fluttering or revolving devices. Included in this prohibition are signs which are mechanically animated, such as moving, rotating or revolving signs. Said devices, as well as strings of lights, shall not be used for the purposes of advertising or attracting attention when not part of a sign.

(7) All signs shall be constructed of wood, metal or other durable material approved by the Building Inspector. All signs shall be constructed so as to withstand reasonable wind and weather and so as not to be detrimental or hazardous to the public health, safety and welfare and must be kept clean, neatly painted and in such a state of repair so as not to be detrimental or hazardous to the public health, safety and welfare. The Building Inspector shall issue notice to owners of signs in violation of this provision, which said owners shall be permitted ten (10) days within which to make all necessary repairs to or remove all signs in violation.

(8) With the exception of event signs and off-site directional signs discussed in Subsections B and D herein, respectively, all signs shall convey subject matter related exclusively to the premises on which the sign is located or to products, accommodations or activities on those premises.

B. Permitted signs in all districts. The following permanent signs are permitted in any zoning district without application fee and issuance by the Building Inspector of a sign permit or payment of a permit fee:

(1) A single freestanding, projecting or wall sign denoting the name and address of the occupant of a single-family premises.

(2) A single freestanding, projecting or wall sign denoting the name and/or address of the occupants of the single-family premises on which the sign is located, such sign not exceed two (2) square feet in area.

(3) For permitted home occupations, a single sign not exceeding four (4) square feet in total surface area and identifying the occupation conducted on the premises. Such sign shall be limited to six (6) feet in height, unless attached to the principal structure, and shall not be located closer than ten (10) feet to the front line nor twenty (20) feet to any other property line.

(4) For each boarding- or rooming house or multifamily dwelling, a single freestanding, wall or borderless sign not exceeding eight (8) square feet in area.

(5) A single construction sign, unlighted and limited to twenty-four (24) square feet in surface area and identifying the parties involved in the construction on the premises where the sign is located, but not including the advertisement of any product. Such signs shall be removed immediately upon the issuance of a certificate of occupancy and the initiation of intended use.

(6) Event signs not exceeding twenty-four (24) square feet in surface area, displayed on private property and limited to one (1) such event sign per each premises, announcing a campaign, drive or event of a political, civic, philanthropic, educational or religious organization, to be removed within a period of five (5) days after the event.

C. Permitted signs in certain districts. Upon application and payment of the required sign permit fee in

accordance with a schedule established and reviewed annually by the Town Board and issuance of a sign permit by the Building Inspector, the following signs shall be permitted in accordance with the identified standards related to number, size and location:

(1) For nonresidential uses within the R-1, R-2 and R-3 Districts, a single, freestanding wall sign not exceeding twenty-four (24) square feet in total surface area, except as otherwise stated by this chapter, and identifying only the name of the establishment and its principal service or purpose. If freestanding, such sign shall not exceed fifteen (15) feet in height above finished grade and shall be located no closer than fifteen (15) feet to any property line.

(2) For nonresidential uses within the B-1, B-2, B-3 and I-1 Districts, a single freestanding or wall sign not exceeding forty-eight (48) square feet in total surface area and identifying only the name of the establishment and its principal service or purpose. If freestanding, such sign shall not exceed fifteen (15) feet in height above finished grade and shall be located no closer than fifteen (15) feet to any property line.

(3) Where two (2) or more nonresidential uses are located on a single site in a B-1, B-2, B-3 or I-1 District, such as a retail shopping center or light industrial park development, both a single freestanding sign not exceeding one hundred (100) square feet in total sign area or forty-eight (48) square feet, plus eight (8) square feet per industrial or business use within the center or development, whichever shall be less, and identifying only the name of the center or development and the businesses located therein shall be permitted. In addition, a single wall sign not exceeding forty (40) square feet for each industrial or business use shall be permitted.

D. Off-site directional signs. Businesses and public destinations relating to but isolated from primary routes of travel shall be permitted a maximum of two (2) directional signs as a special permit use subject to the provisions of Article VII of this chapter, the issuance of a sign permit and the following additional requirements:

(1) In locations with more than one (1) directional sign, all such signs shall be affixed to a common standard and be graphically coordinated and arranged so as to present a neat and orderly appearance. Any such standard shall be designed to accommodate the later addition of further directional signs.

(2) No directional sign shall be more than four (4) square feet in area. In areas with more than one (1) directional sign, the aggregate area of all such signs shall not exceed sixteen (16) square feet.

(3) Any such directional sign shall conform to the standards for material and color established by the New York State Department of Environmental Conservation and the Adirondack Park Agency to ensure maintenance of the natural beauty of the Adirondack Park.

E. On-site directional signs. During site plan review, as governed by Article VIII of this chapter, the Planning Board may review and recommend that sign permits be granted for the erection of on-site directional signs, provided that the individual signs do not exceed two (2) square feet in area and are limited to text such as "Office," "Entrance" or "Exit." Permits will only be granted if the applicant can clearly demonstrate that such directional sign or signs are set back not less than five (5) feet from either the public right-of-way or any property boundary.

§ 106-22. Fences and walls.

A. Except as otherwise provided in Subsections B and D below, in any residential or business district, fences and walls shall not exceed six (6) feet in height when erected in side or rear yards nor four (4) feet in height when erected within twenty-five (25) feet of the front lot line or highway right-of-way.

B. In the General Industrial District, fences and walls shall not exceed eight (8) feet in height, except that on a residential district boundary line, such fences or walls shall be limited to six (6) feet in height.

C. In any district, all such fences and walls shall additionally conform to the requirements of § 106-14 of this chapter as pertain to corner lots where special sight clearance considerations are necessary to protect traffic safety.

D. Fences and walls for the special purposes listed below shall be permitted as follows but shall not be located within any portion of the required front yard or within twenty (20) feet of any lot line:

(1) Tennis court. A chain link fence shall be permitted up to twelve (12) feet in height.

(2) Dog enclosure. A chain link or open mesh fence shall be permitted up to six (6) feet in height. The area enclosed must not exceed twenty percent (20%) of the property or ten thousand (10,000) square feet, whichever is greater.

§ 106-23. Excavations and soil removal.

Nothing contained herein shall prohibit the excavation of sand, gravel, shale, topsoil or similar material from a lot preparatory to construction of a building for which a building permit has been issued, or the movement of such material from one part of a premises to another part of the same premises when such excavation or removal is clearly incidental to the

approved building construction/site development and necessary for improving the property for a use permitted in the district in which it is located. Provision shall be made to restore an effective cover crop to any area of land from which topsoil has been removed or which has been covered with fill within the first growing season following the start of such operation.

§ 106-24. Development near streams and wetlands.

In order to preserve the open character along major streams for environmental and ecological reasons, all development proposed within one hundred (100) feet of the normal stream bank of any classified stream within the town or within one hundred (100) feet of the boundary of a freshwater wetland as mapped by the New York State Department of Environmental Conservation shall be subject to special permit review as provided by Article VII of this chapter.

§ 106-25. Grading, filling and clearing of land.

In order to avoid sedimentation of any adjacent water resource or erosion on the subject or adjacent properties, which will destroy or mar natural beauty or scenic areas or otherwise adversely affect property, all grading, filling or clear-cutting of land within five hundred (500) feet of a shoreline or any lake, pond, river or other navigable body of water, except as provided in § 106-23 of this chapter, shall be subject to special permit review as provided by Article VII of this chapter.

§ 106-26. Development within the Flood Fringe Overlay District.

All development within the Flood Fringe Overlay District shall be subject to the special use permit review procedure provided by Article VII of this chapter, including those special design requirements stated in § 106-39 therein.

§ 106-27. Agricultural uses.

All agriculture uses, as specifically defined in § 106-4 of this chapter, shall comply with the following criteria:

A. Buildings or structures for permitted fowl or livestock shall be located not less than fifty (50) feet from any lot line nor, except where the farm operation precedes the residential use, within two hundred (200) feet of the nearest neighboring residential structure. No fenced area for such fowl or livestock shall be closer than one hundred (100) feet to an existing residential structure.

B. The storage of manure or other dust- or odor-producing substances shall be adequately screened from the view of adjacent properties and located not less than one hundred (100) feet from any lot line or well providing a source of potable water nor within two hundred (200) feet of the nearest neighboring residential structure.

§ 106-28. Swimming pools.

Any outdoor swimming pool, whirlpool or hot tub, as defined within § 106-4 of this chapter, shall be subject to the following requirements:

A. The outdoor swimming pool, whirlpool or hot tub shall be enclosed on all sides by a security fence not less than four (4) feet nor more than six (6) feet in height, or in the case of a whirlpool or hot tub, a securely locked cover shall be provided.

B. Such security fence, as may be applicable, shall be provided with a locking gate to prevent accidental entry or unauthorized use of the outdoor swimming pool, whirlpool or hot tub.

§ 106-29. Home occupations.

In any district, home occupations, as defined in § 106-4 of this chapter, shall additionally conform to the following use limitations:

A. A home occupation may only be conducted within a dwelling which is the place of domicile of the principal practitioner of the occupation or in an accessory building thereto which is normally associated with the residential use. For purposes of this chapter, a home occupation occurring fully within a dwelling shall be considered a permitted Class I home occupation; those home occupations occurring in an accessory building shall be considered Class II home occupations, which may only be authorized by special use permit in accordance with Article VII of this chapter.

B. Not more than two (2) such home occupations, whether Class I or Class II, may occur on a single residential premises, with Subsections C, E and H below applying to either the single home occupation or the aggregate of the two (2) home occupations occurring on the premises.

C. In accordance with this chapter and the New York State Uniform Fire Prevention and Building Code, the home occupation activity, whether located in the dwelling or in a customary accessory structure, shall occupy no more than twenty-five percent (25%) of the gross floor area of the dwelling or five hundred (500) square feet, whichever shall be more restrictive.

D. Except for articles produced on the premises, no stock-in-trade shall be displayed or sold on the premises.

E. No alteration to the exterior of the principal residential building or customary accessory buildings used for the home occupation activity shall be made which changes the character thereof as a residential premises, except that a single sign not exceeding four (4) square feet in total surface area shall be permitted. Any new construction undertaken to accommodate the home

occupation activity shall also be consistent with the character of a residential premises.

F. No outdoor display of goods or outdoor storage of equipment or materials used in the home occupation shall be permitted in the front yard of the premises. Such goods, equipment or materials may be displayed or stored elsewhere on the property only if appropriately covered and/or screened, except that in any residential district, not more than two (2) commercial vehicles shall be stored outdoors on any residential premises, and no storage of any such vehicle outdoors shall occur within one hundred (100) feet of an adjoining residential lot line or a street line.

G. Not more than one (1) person other than members of the household occupying such dwelling shall be employed in the conduct of the home occupation.

H. There shall be permitted no sharing, letting or subletting of space for use by others in the conduct of their profession, trade or business.

I. Sufficient off-street parking shall be provided as required within § 106-20 of this chapter.

J. The home occupation shall be fully consistent with all other provisions of this chapter. When use exceeds the above-cited standards, the use shall not be considered a home occupation and must be located in a zoning district where personal service, professional service or business uses are permitted by right within the Article IV, Use Regulations.

§ 106-30. Outdoor storage on residential lots.

Not more than two (2) commercial vehicles in excess of twenty (20) feet in length nor one (1) unoccupied mobile home or unoccupied recreational vehicle nor one (1) boat up to twenty-four (24) feet for up to ten (10) months may be stored outdoors on a lot in a residential district. All such outdoor

storage shall occur as inconspicuously as practicable on the lot and may not occur within the minimum required front yard. No such commercial vehicle or mobile home shall be stored within one hundred (100) feet of an adjoining residential lot line nor shall a camping trailer or boat be stored within twenty-five (25) feet of an adjoining residential lot line unless a dense natural screen is planted and maintained, in which case the above-stated minimum distances may be reduced to fifty (50) feet and fifteen (15) feet, respectively.

§ 106-31. Required screening.

Any enclosed or unenclosed business or light industrial use permitted by this chapter shall be provided with the minimum required yard area and a fence, screen and/or landscaping sufficient to obscure objectionable aspects of such use from view from adjoining properties in residential districts and/or from public rights-of-way.

A. Any use which is not conducted within a completely enclosed building, including but not limited to storage yards and parking lots, and which use abuts, is adjacent to or is located within a residential district or fronts a public right-of-way shall be obscured from view from such residential districts and public rights-of-way in an effective manner.

B. Adequate plans for the installation of required fences, screens and landscaping shall be reviewed by the Planning Board in accordance with the provisions of Article VIII of this chapter.

C. Any required fences, screens and landscaping installed in accordance with this section shall be maintained in good order to achieve the objectives stated herein. Failure to maintain fencing or to replace dead or diseased landscaping shall be considered a chargeable violation of this chapter.

§ 106-32. Sewage disposal systems.

No person shall undertake to construct any new building or structure in the Town of Harrietstown without first meeting the requirements for a system or facilities for the separate disposal of sewage and domestic wastes in accordance with applicable regulations of the town, the New York State Department of Health and the New York State Department of Environmental Conservation.

§ 106-33. Solar access.

To the extent practicable and in accordance with Chapter 742 of the Laws of 1979, the accommodation of solar energy systems and equipment and the protection of access to sunlight for such equipment shall be encouraged in the application of the various review and approval provisions of this chapter.

§ 106-34. Disposal areas.

No dump, landfill, septage disposal site or other disposal area shall be permitted within the Town of Harrietstown, except where leased, owned and operated by the Town of Harrietstown, whether operated through its own forces or on a contract basis.

§ 106-35. Garage sales.

No person shall conduct a yard sale, barn sale, garage sale, tag sale or similar event on a residential premises, regardless of how the event is described, except in accordance with the provisions of this chapter. Such event shall occur not more than twice per calendar year on a residential premises nor shall the event exceed three (3) consecutive calendar days per occurrence. All such events shall be restricted to the hours of 8:00 a.m. to 8:00 p.m. Any signage associated with the event shall be installed not more than one (1) day before the start of the event and removed immediately upon its close.

ARTICLE VII
Special Permit Uses

§ 106-36. Applicability; conformance required.

All special permit uses specified in Article IV, Use Regulations,[7] shall be subject to the review and approval of the Zoning Board of Appeals in accordance with the standards and procedures specified herein. In all cases where this chapter requires such special use permit authorization by the Zoning Board of Appeals, no building permit nor certificate of occupancy or use shall be issued by the Building Inspector except upon authorization of and in full conformity with plans approved by the Zoning Board of Appeals.

§ 106-37. General standards.

In authorizing any special permit use, the Zoning Board of Appeals shall take into consideration the public health, safety and general welfare, the comfort and convenience of the public in general and that of the residents of the immediate neighborhood in particular. The Zoning Board of Appeals shall also take into strict account the specific conditions set forth in this section for certain uses, applicable supplementary regulations, including the general performance standards, stated in Article VI of this chapter and the following general objectives:

A. The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to the use and the location of the site with respect to the existing or future streets providing access shall be in harmony with the orderly development of the district.

B. The location, nature and height of the buildings, walls and fences and the nature and intensity of intended operations will not discourage the appropriate

[7] Editor's Note: The Schedule of Use Regulations is included at the end of this chapter.

development and use of adjacent land and buildings or impair the value thereof.

C. All proposed traffic access ways shall be adequate but not excessive in number; be adequate in width, grade, alignment and visibility; be located not less than fifty (50) feet from any intersection or place of public assembly; and meet similar safety considerations.

D. Adequate provision for safe and accessible off-street parking and loading spaces shall be made as specified by § 106-20 of this chapter.

E. All parking and service areas shall be screened at all seasons of the year from the view of adjacent residential lots and streets, and the general landscaping of the site shall be in character with that generally prevailing in the neighborhood. Such landscaping shall include the preservation of existing natural screening and trees over eight (8) inches in diameter to the maximum extent possible.

F. The character and appearance of the proposed use, buildings, structures and/or outdoor signs shall be in general harmony with the character and appearance of the surrounding neighborhood, shall not be more objectionable to nearby properties by reasons of noise, fumes, vibration or lights than would be the operations of any permitted principal use and shall not adversely affect the general welfare of the inhabitants of the Town of Harrietstown.

G. All proposed buildings, structures, equipment and/or material shall be readily accessible for fire and police protection.

§ 106-38. Specific standards.

In addition to the general standards stated above and the site plan review considerations stated in § 106-46 of this chapter,

the following specific standards shall be strictly complied with for the particular special permit uses cited below:

A. Individual mobile homes, provided that:

(1) All minimum requirements stated within this chapter pertaining to single-family dwellings are met.

(2) Any mobile home sited in the town shall be demonstrated to the satisfaction of the Building Inspector to have been constructed in accordance with the 1976 federal regulations for mobile homes and shall meet current requirements stated within the New York State Uniform Fire Prevention and Building Code for one- and two-family dwellings, including factory-manufactured homes.

(3) The mobile home shall be wholly sited on a concrete pad with a concrete block or poured masonry foundation provided in conformance with the New York State Uniform Fire Prevention and Building Code.

(4) Water supply and sewage disposal systems shall be installed in full conformance with the requirements of the New York State Department of Health, and a certificate to that effect shall be provided prior to issuance of a certificate of occupancy by the Building Inspector.

(5) Any modifications or additions to the mobile home shall be in conformance with the New York State Uniform Fire Prevention and Building Code and applicable provisions of this chapter.

(6) No mobile home shall be located permanently within fifty (50) feet of a street or highway or within one hundred (100) feet of an existing dwelling fronting on any federal, state or county road nor on a lot in any subdivision which has, in part, been developed with conventional dwellings.

B. Mobile home parks, provided that:

(1) The lot or parcel proposed for such use is at least five (5) acres in area.

(2) Not more than six (6) mobile home sites or stands per acre of lot area shall be permitted.

(3) Central water supply and common sewage disposal facilities shall be provided in accordance with the requirements of the Town of Harrietstown and the New York State Departments of Health and Environmental Conservation.

(4) Additional common services, such as laundry facilities and refuse collection, are provided in accordance with applicable laws and regulations.

(5) Common open space or recreation areas not less than twenty-five percent (25%) of the total development site shall be provided.

(6) All minimum setback requirements established within § 106-11 of this chapter are met.

(7) Existing natural screening is maintained along the boundaries of the mobile home park and supplemented with additional plant material or other screening when, in the opinion of the Board of Appeals, it is necessary to provide such screening to protect adjacent residential areas or public roadways from a view of the mobile home park.

C. Camps, campgrounds, recreational vehicle parks, tourist cottage and cabin developments and similar uses, provided that:

(1) The lot or parcel proposed for such use is at least five (5) acres in area.

(2) Not more than eight (8) tent or recreational vehicle sites or eight (8) cottages or cabins or other family accommodations per acre of lot area shall be permitted.

(3) Central water supply and common sewage disposal facilities shall be provided in accordance with the requirements of the Town of Harrietstown and the New York State Departments of Health and Environmental Conservation.

(4) No tent or recreational vehicle site or other building or structure location shall be within one hundred (100) feet of any bounding roadway, property line or shoreline.

(5) Open space areas shall be set aside and maintained for recreational facilities such as swimming pools, court games or other active or passive recreational activities for patron use.

(6) Each tourist cottage, cabin or other family accommodation shall have at least three hundred (300) square feet of building area.

(7) Each tent or recreational vehicle site shall have at least three thousand (3,000) square feet of lot area.

D. Airports and airfields in an R-1 or I-1 District or a seaplane base in a B-3 District, provided that:

(1) The proposed site and plans for development thereof have met all of the applicable standards for the type of proposed air facility as promulgated by the Federal Aviation Agency, the New York State Department of Transportation, the New York State Department of Environmental Conservation and other agencies.

(2) The owners of the air facility present evidence that they have fee title or air rights to the land in the clear zones extending one thousand (1,000) feet from each end of the usable landing strip(s) or runway(s).

(3) Hangars and other buildings and structures shall be located at least one hundred (100) feet from any lot line.

(4) Adequate space for automobile off-street parking shall be provided in accordance with § 106-20 of this chapter.

E. Home occupations, Class II (located in an accessory building), provided that the home occupation conforms strictly with the limitations specified within § 106-29 of this chapter.

F. Roadside stands, provided that:

(1) Such stand shall not exceed one hundred (100) square feet in total area.

(2) Such stand shall be located not less than fifteen (15) feet from any street line.

(3) Such stand shall be used solely for display and sale of agricultural products grown exclusively on the premises or elsewhere by the operator of the roadside stand.

(4) Signage shall be limited to twelve (12) square feet and be located not less than five (5) feet from any street line.

G. Membership clubs providing public and private recreational facilities, including playgrounds, swimming facilities, golf courses and hunting and fishing clubs with accessory buildings for administration, operation and clubhouse purposes, provided that:

(1) The minimum lot area shall be three (3) acres.

(2) No building shall be located closer than fifty (50) feet to any street or lot line.

(3) Plans for all public address systems and lighting for outdoor recreational facilities shall be submitted to and approved by the Planning Board.

H. Cemeteries and crematories for humans, provided that:

(1) No burial or memorial plats or buildings shall be located closer than fifty (50) feet to any residential lot line.

(2) Crematories shall only be located within cemeteries.

(3) All burials shall be undertaken in strict accordance with all applicable regulations of the New York State Department of State and Department of Health.

I. Veterinarians' offices, animal hospitals or kennels and animal cemeteries, provided that:

(1) Buildings or structures, including fenced runs and similar outdoor areas, shall be located not less than one hundred (100) feet from any lot line nor within three hundred (300) feet of the nearest neighboring residential structure.

(2) No burial site shall be located closer than one hundred (100) feet to any lot line, nor shall any such site be within two hundred (200) feet of the nearest residential structure, stream or other water body or source of private or public water supply.

(3) The facility shall be screened from neighboring streets and properties by natural vegetation.

J. Radio and television receiving and transmitting antennas, provided that:

(1) The proposed location and structure height will not interfere with the approach zone to any airport.

(2) The dimensions of the site are such that the distances in all directions from the base of the proposed transmission tower to the edge of the property exceed by twenty percent (20%) the height of the tower.

K. Gasoline stations, automobile or equipment rental and sales and automobile repair facilities, provided that:

(1) No gasoline station shall be located within two hundred (200) feet of any school, church, public library, theater, hospital, park, playground or other public gathering place designed for occupation by more than fifty (50) people, the distance to be measured in a straight line between the nearest point of each lot.

(2) The area for use by motor vehicles, including display and storage, except access drives thereto, as well as any structures, shall not encroach on any required yard area.

(3) No fuel pump shall be located within twenty-five (25) feet of any lot line or within the required side or front yard, whichever shall be more restrictive. The station layout shall eliminate the necessity of any vehicle backing into a public right-of-way.

(4) Entrance and exit driveways shall total no more than two (2) in number and shall have an unrestricted width of not less than eighteen (18) feet nor more than thirty (30) feet and be located no closer than ten (10) feet to any side lot line.

(5) Gasoline or flammable oils in bulk shall be stored fully underground, not closer than twenty (20) feet to any lot or street line.

(6) All repair work and storage of equipment, materials, supplies and parts shall be located within a structure completely enclosed on all sides, not to be construed as meaning that the doors on any repair shop must be kept closed at all times.

(7) Suitable year-round buffering and landscaping shall be provided in all rear and side yards. When such use abuts the side and/or rear line of a lot in any residential district, a sightly solid wall or fence six (6) feet high shall separate such use from the adjoining residential use.

(8) Those establishments which sell gasoline in combination with a quick-stop retail food outlet shall:

(a) Ensure that adequate parking is available on the site for customers making purchases at the store but not buying gasoline. This parking area shall be located in such a manner that it does not interfere with the safe entry and exit of vehicles purchasing gasoline.

(b) Provide an enclosed trash dumpster for disposal of stock packings removed by store employees and trash receptacles for customer use on the premises.

(c) Maintain no outdoor displays of merchandise which interfere with the safe flow of traffic and pedestrians.

(d) Locate all vending machines on the side of the building.

(e) Direct all rooftop heating/ventilation/air-conditioning or refrigeration units away from adjacent residential properties.

L. Limited neighborhood business uses, provided that:

(1) The use shall be specifically restricted to retail sales of household goods and personal service establishments, with the maintenance of vehicles, tools and appliances, the sale of gasoline and the harboring of animals specifically prohibited.

(2) The use shall not occupy more than one thousand (1,000) square feet of gross floor area, inclusive of all customer, storage and office areas.

(3) The use shall not require more than seven (7) off-street parking spaces when developed in strict accordance with the minimum parking standards provided within § 106-20A of this chapter.

(4) The structure and use shall, to the extent practicable, be of a character similar to that of a residential premises.

(5) The minimum lot area and all regulations stated in § 106-11, Schedule of Area and Bulk Regulations, for the R-1 District shall be strictly observed.

(6) The use shall not operate between the hours of 8:00 p.m. and 7:00 a.m.

(7) Suitable year-round buffering and landscaping shall be provided in all rear and side yards.

M. Commercial recreation or amusement facilities, provided that:

(1) The lot or parcel proposed for such use is at least two hundred (200) feet from any main building in any residential district.

(2) All buildings and structures are located at least one hundred (100) feet from any bounding lot or street line.

(3) In the case of a drive-in theater, the screen shall be located so as not to face any street or highway, and individual loudspeakers for each car shall be provided, and no central loudspeaker shall be permitted.

(4) Floodlighting shall be controlled and arranged so as not to shine or cause glare in any adjacent residential areas or into the path of motor vehicles on any adjacent highway, road or street.

(5) In all cases where the Board of Appeals deems it necessary, adequate sight and sound barriers between the proposed use and adjacent uses shall be provided. Such barriers may be walls, fences or screenplanting of depth sufficient to accomplish the above objective.

(6) Ingress and egress to and from the highway shall be so designed as to provide for safe traffic movement, with no special permit granted for commercial recreation uses along any section of a highway or road where there is not a clear unobstructed view in each direction for a distance of eight hundred (800) feet from an entrance or exit drive.

N. Public utility stations or structures, provided that:

(1) The proposed location is necessary for public convenience and service which could not be equally provided if the station or structure were located in a district where it would be a permitted use under this chapter.

(2) If situated within an R-1, R-2 or R-3 District, the station or structure shall, wherever practicable, have the exterior appearance of a residential building.

(3) Suitable landscaping, including screening from public roadways and neighboring residential properties, is provided.

O. Mining and quarrying, including and limited to the removal of sand, gravel, clay or rock or the extraction of other natural material or deposits, in an I-1 District, provided that:

(1) All applicable provisions of the New York State Mined Land Reclamation Law[8] and other state and federal regulations shall be fully complied with.

(2) A time schedule for completion of either the entire operation or, if excavation is to occur in stages, of each stage of the operation is submitted for approval.

(3) An operations plan, including the number and types of trucks and other machinery to be used on the site,

[8] Editor's Note: See § 23-2701 et seq. of the Environmental Conservation Law.

including their respective noise levels, is submitted for approval.

(4) A progressive restoration and rehabilitation plan showing both existing contours and proposed final contours after operations are completed is submitted for approval.

(5) A performance guaranty (performance bond or escrow deposit) to assure that rehabilitation is provided, upon recommendation of the Planning Board, in an amount and form satisfactory to the Town Board and the Town Attorney.

(6) A buffered area of not less than three hundred (300) feet shall be established between the operation and the nearest property line, with fencing provided where deemed necessary by the Board of Appeals for either aesthetics or to protect public health and safety.

(7) In general, such special use permit shall be restricted to a disturbed area not to exceed five (5) acres and to a time period not to exceed three (3) years, though this does not preclude the applicant's filing of an application for renewal or continuation of said special use permit.

P. RV units/motor homes as dwelling unit. **[Added 10-15-1992 by L.L. No. 1-1992]**

(1) As used in this subsection, "recreational vehicle unit" shall be defined as a unit built on a single chassis; four hundred (400) square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light-duty vehicle; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use. Further, a unit shall not be considered a "recreational vehicle unit" unless there is affixed to it a Recreational Vehicle Industry Association

(RVIA) certification symbol or equivalent. Such symbol must have been affixed at the factory where the recreational unit was manufactured.

(2) RV units/motor homes as dwelling units shall be permitted, provided that:

(a) An RV unit or motor home has hard sidewalls. No soft walls will be considered as an RV dwelling unit.

(b) Permanent water and sewer supply are in place to allow parking of such unit, such systems to be per New York State Department of Health standards.

(c) No such RV unit shall be located within fifty (50) feet of a street or highway or within one hundred (100) feet of an existing dwelling fronting on any federal, state or county road nor on a lot in any other district than an R-1.

(d) The RV unit has a valid Department of Motor Vehicles registration that is current.

(e) Existing natural screening is maintained along the boundaries of the property and supplemented with additional plant material or other screening when, in the opinion of the Board of Appeals, it is necessary to provide such screening to protect adjacent residential areas or public roadways from view.

(f) No accessory structure shall be attached to an RV unit.

(g) A permit, once issued, will be a three-year revokable permit, reviewable upon the discretion of the Zoning Board of Appeals. The permit will allow for one hundred eighty (180) days as a temporary dwelling unit, and then the unit must be removed.

(h) Any permit issued will be nontransferable to another owner or another trailer.

Q. **[Added 10-15-1992 by L.L. No. 1-1992]** Boathouses and structures of similar use, provided that:

(1) A minimum side setback of twenty (20) feet shall be maintained from any other property line.

(2) A boathouse shall not exceed a height of twenty (20) feet, including the railing on flat decks, above the mean high-water line. Its primary use shall be for storage of boats and attendant equipment. It shall contain no plumbing.

(3) Boathouses and waterfront structures shall be of colors and materials that are in harmony with the surroundings.

(4) The principle use of boathouses and waterfront structures shall be by the owner or occupant of the shoreline lot.

(5) No boathouse structure shall exceed fifty percent (50%) of shoreline coverage on a lot. The front footage shall be determined by straight line measurement from side lot lines. Islands shall include all shoreline as per assessed basis.

(6) Temporary boathouses and additions to existing structures shall require a special permit as though they were permanent.

§ 106-39. Uses within the Flood Fringe Overlay District.

In accordance with § 106-26 of this chapter, all uses proposed within the Flood Fringe Overlay District (FF-O) shall be considered special permit uses subject to review by the Planning Board for compliance with the following additional standards as certified to by a registered architect or licensed professional engineer:

A. All structures shall be designed and anchored to prevent flotation, collapse or lateral movement due to floodwater-related forces.

B. All construction materials and utility equipment used shall be resistant to flood damage.

C. Construction practices and methods shall be employed which minimize potential flood damage.

D. All public utilities and facilities shall be located and constructed to minimize or eliminate potential flood damage.

E. Adequate drainage shall be provided to reduce exposure to flood hazards.

F. All water supply and sanitary sewage systems shall be designed to minimize or eliminate floodwater infiltration or discharges into the floodwaters, including the provision that on-site sewage systems shall be located so as to avoid impairment of them or contamination from them during flooding.

G. All new residential construction or substantial improvements to residential structures shall have the lowest floor (including basement) elevated to at least one (1) foot above the water level of the one-hundred-year flood.

H. All new nonresidential construction or substantial improvements to such nonresidential structures shall have their lowest floor (including basement) elevated to at least one (1) foot above the water level of the one-hundred-year flood or, as an alternative, be floodproofed up to the same water level, including attendant utility and sanitary facilities.

I. No use shall be permitted, including fill, dredging or excavation activity, unless the applicant has demonstrated that the proposed use, in combination with all other existing and anticipated uses, will not raise the

water level of the one-hundred-year flood more than one (1) foot at any point.

§ 106-40. Applications.

The Zoning Board of Appeals shall review and act on all special use permit applications in strict accordance with the procedure specified in § 106-64 of this chapter. In addition, all special use permit applications to the Zoning Board of Appeals shall be accompanied by the following:

A. A sketch site and/or building plan, as applicable, providing sufficient information to permit the Board to review compliance with the general standards discussed in § 106-37 of this chapter.

B. Such additional information as is required for certain uses under §§ 106-38 and 106-39 of this chapter.

§ 106-41. Effect of special permit approval.

A. No building permit shall be issued for any structure covered by this section until such special use permit has received approval by the Zoning Board of Appeals and a copy of a resolution to that effect has been presented to the Building Inspector.

B. No certificate of occupancy or use shall be issued for any structure or use of land covered by this section until the structure is completed or the land developed in strict accordance with the resolution of special permit approval by the Zoning Board of Appeals and other applicable requirements of this chapter.

C. Any use for which a special use permit may be granted shall be deemed to be a conforming use in the zoning district in which it is located, provided that such permit shall be deemed to affect only the lot or portion thereof for which such permit has been granted.

D. The Zoning Board of Appeals may require in its resolution of approval that a special use permit be renewed periodically. Such renewal may be withheld only after public hearing and upon determination by the Zoning Board of Appeals that such conditions as may have been prescribed in conjunction with the issuance of the original permit have not been or are being no longer complied with. In such cases, a period of sixty (60) days shall be granted for full compliance by the applicant prior to revocation of the special use permit.

E. The granting of a special use permit in an FF-O (Flood Fringe Overlay) District shall not be held to constitute a representation, guaranty or warranty of any kind by the Town of Harrietstown or by any official or employee thereof for the practicability or safety of any structure or use or the proper functioning of the proposed facilities and plans and shall not be held to create a liability upon or cause of action against such public body, official or employee for any damage that may result pursuant thereto.

§ 106-42. Expiration of permit.

A special use permit shall be deemed to authorize only one (1) particular special use and shall expire if the special use permit is not commenced and diligently pursued within one (1) calendar year of the date of special use permit issuance, as specified by § 106-64G of this chapter, or if the use authorized ceases for more than six (6) months for any reason.

ARTICLE VIII
Site Plan Review

§ 106-43. Applicability; referral to Planning Board.

In accordance with Article IV, Use Regulations, prior to the issuance of a building permit or certificate of occupancy or use in any district, except for a one- or two-family dwelling and

related accessory or general agricultural uses permitted by right, the Building Inspector shall refer the applicant to the Planning Board for site plan review and approval in accordance with § 274-a of the Town Law and the standards and procedures set forth in this Article.

§ 106-44. Sketch plan conference.

A. A sketch plan conference between the Planning Board and the applicant shall be held to discuss the applicability of the site plan review and approval procedure to the intended development for which the building permit or certificate of occupancy or use is sought.

B. The Planning Board shall make its determination based upon review of the project's scope and the basic land use and site design concept, as shown by a sketch plan drawn to scale, and accompanying statements provided by the applicant and describing at a reasonable level of detail what is proposed.

C. At the sketch plan conference, the Planning Board shall take one of three (3) actions:

(1) Determine that the project is limited in scope, with compatible land use, site and building design characteristics, thus requiring no further review under this Article with such determination restricted to applications including the establishment of permitted uses within existing complying structures or the limited modification of existing conforming uses and complying structures wherein no substantial site improvements are either required or proposed.

(2) Determine that the project does require full review under this Article, based upon the project's scope and/or land use, site and building design characteristics, and advise the applicant of site plan

submission requirements in accordance with § 106-45.

(3) Require additional sketch plan information prior to making a determination regarding the applicability of the site plan review and approval procedure.

D. In order to assist the Planning Board in its determination, the applicant shall submit, as may be applicable, the further data discussed below, during the sketch plan discussion:

(1) An area map keyed to the real property tax maps, showing the parcel under consideration for site plan review and all properties, subdivisions, streets and easements within two hundred (200) feet of the boundaries thereof.

(2) A map of site topography at no more than ten-foot contour intervals.

§ 106-45. Application for approval; contents.

An application for site plan approval shall be made, in writing, to the Planning Board and shall be accompanied by four (4) prints of a site plan which includes information drawn from the following checklist of items, as determined necessary by the Planning Board at the time of the sketch plan conference and certified by a licensed engineer, architect, landscape architect and/or land surveyor:

A. Site plan checklist.

(1) The title of the drawing, including the name and address of the applicant and the person(s) responsible for the preparation of such drawing.

(2) The North arrow, scale and date.

(3) Accurate boundaries of the property plotted to scale.

(4) Any existing watercourses.

(5) The grading and drainage plan showing existing and proposed contours at an appropriate interval to be specified by the Planning Board at the sketch plan conference, with two-foot contour intervals and soils data generally required on that portion of any site proposed for development where general site grades exceed five percent (5%) or there may be susceptibility to erosion, flooding or ponding.

(6) The location, proposed use and height of all buildings.

(7) The location, design and construction materials of all parking and truck-loading areas, with access and egress drives thereto.

(8) Any provision for pedestrian access.

(9) The location of outdoor storage equipment and materials, if any.

(10) The location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.

(11) A description of the method of sewage disposal and the location, design and construction materials of such facilities.

(12) A description of the method of securing water supply and the location, design and construction materials of such facilities.

(13) The location of fire and other emergency zones, including the location of the nearest water supply for fire emergencies.

(14) The location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy.

(15) The location, size and design and construction materials of all proposed signage.

(16) The location and proposed development of all buffer areas, including indication of existing vegetative cover.

(17) The location and design of outdoor lighting facilities, including data regarding, when appropriate, lighting levels, both within the site and at the site's boundaries.

(18) A designation of the amount of building area proposed for retail sales, office use or similar commercial activity.

(19) A general landscaping plan and planting schedule.

(20) Other elements integral to the proposed development, as considered necessary by the Planning Board, including the identification of any state or county permits required for the project's execution.

B. Required fee. An application for site plan review and approval shall be accompanied by the applicable fee in accordance with the fee schedule established and annually reviewed by the Town Board.

§ 106-46. Planning Board review.

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

A. General considerations:

(1) The adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, structures and traffic controls.

(2) The adequacy and arrangement of pedestrian traffic access and circulation, walkways, control of intersections with vehicular traffic and overall pedestrian convenience.

(3) The location, arrangement, appearance and sufficiency of off-street parking and loading.

(4) The location, arrangement, size, design and general site compatibility of principal and accessory buildings, lighting and signage.

(5) The adequacy of stormwater and drainage facilities.

(6) The adequacy of water supply and sewage disposal facilities.

(7) The adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise-deterring buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.

(8) In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation.

(9) Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.

(10) The adequacy of fire lanes and other emergency zones and water supply for fire emergencies.

(11) Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

(12) The compatibility of building design with the existing characteristics of the neighborhood.

B. Consultant review. In its review, the Planning Board may consult with the Town Building Inspector, the Superintendent of Highways, other local and county officials 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.

C. Public hearing. The Planning Board may conduct a public hearing on the application for site plan approval. If a public hearing is considered desirable by a majority of the Planning Board, such public hearing shall be conducted within forty-five (45) days of the receipt of the application and shall be advertised in a newspaper of general circulation in the town at least five (5) days before the public hearing.

D. Required referral. Prior to taking action on the site plan, the Planning Board shall refer the site plan, when applicable, to the Franklin County Planning Board for advisory review and a report in accordance with §§ 239-l and 239-m of the General Municipal Law.

§ 106-47. Planning Board action.

Within sixty (60) days of the receipt of an application for site plan approval or within forty-five (45) days of the conduct of a public hearing, whichever shall first occur, the Planning Board shall act on the site plan application.

A. Action by resolution.

(1) The Planning Board shall act, by resolution, to either approve, disapprove or approve with modifications the site plan application. A copy of the resolution shall be filed in the Town Clerk's office and mailed to the applicant within ten (10) days of the Planning Board's action. A resolution of either approval or approval with modifications shall include authorization to the Planning Board Chairman to stamp and sign the site plan upon the applicant's compliance with the subdivision requirements stated in Subsection B.

(2) If the Planning Board's resolution includes a requirement that modifications be incorporated in the site plan, conformance with said modifications shall be considered a condition of approval. If the site plan is disapproved, the Planning Board's

resolution shall state specific reasons for such decision. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.

B. Submission requirements for stamping. After receiving site plan approval, with or without modifications, from the Planning Board, the applicant shall, within six (6) months, submit six (6) prints and one (1) reproducible Mylar of the site plan to the Planning Board for stamping and signature by the Chairman. The site plan submitted for stamping shall conform strictly to the site plan approved by the Planning Board, except that it shall further incorporate any revisions or other modifications required by the Planning Board and shall be accompanied by the following additional information:

(1) A record of application for and approval status of all necessary permits from federal, state and county officials.

(2) Detailed sizing and final material specification of all required improvements.

(3) An estimated project construction schedule.

C. Effect of stamping by Planning Board. Upon stamping and signature by the Chairman, the Planning Board shall forward a copy of the approved site plan to the Building Inspector and the applicant. The Building Inspector may then issue a building permit or certificate of occupancy or use if the project conforms to all other applicable requirements.

§ 106-48. Reimbursable costs.

Reasonable costs incurred by the Planning Board for private consultation fees or other extraordinary expense in connection with the review of a proposed site plan shall be charged to the applicant. Such reimbursable costs shall be in addition to the

fee required in § 106-45B herein. Maximum amounts for such reimbursable costs by project type and size shall be in accordance with the fee schedule established and annually reviewed by the Town Board.

§ 106-49. Performance guaranties.

No certificate of occupancy or use shall be issued until all improvements shown on the site plan are installed or a sufficient performance guaranty has been posted for improvements not yet completed. Such performance guaranty shall be posted in accordance with the procedures specified within § 277 of the Town Law relating to subdivisions. The amount and sufficiency of such performance guaranty shall be determined by the Planning Board after consultation with the Town Attorney, the Building Inspector, other local officials or its designated consultants.

§ 106-50. Inspection of improvements.

The Building Inspector shall be responsible for the overall inspection of site improvements, including coordination with the town's private consultants and other local officials and agencies, as may be appropriate, on multifamily residential, commercial and industrial projects.

§ 106-51. Integration of procedures.

Whenever the particular circumstances of a proposed development require compliance with either another procedure in this chapter, the requirements of the Town Land Subdivision Regulations[9] or the requirements of the State Environmental Quality Review Act, the Planning Board may integrate, if it deems appropriate and to the extent of its authority under law, site plan review as required by this section with the procedural

[9] Editors Note: See Ch. 93, Subdivision of Land.

and/or submission requirements for such other compliance. Such integration of procedures may require, upon mutual written consent of the Planning Board and the applicant, reasonable modification of the time schedules otherwise stated in this Article.

ARTICLE IX
Innovative Development

§ 106-52. Residential cluster development.

The Planning Board of the Town of Harrietstown is authorized simultaneously with the approval of a plat or plats pursuant to Article 16 of the Town Law of the State of New York to modify applicable provisions of this chapter, subject to the conditions set forth in § 281 of said Town Law and those further requirements set forth below:

A. Density.

(1) The average residential density throughout the plat shall not exceed the maximum density permitted for the zoning district in which the plat is located, with such calculation of maximum density based solely upon an approvable plat for lot-by-lot development of single-family detached dwellings on those portions of the site considered by the Planning Board to be suitable for building development based upon analysis of the site's topographic, geologic and hydrological characteristics.

(2) The number of permissible dwelling units within a cluster development may be alternately established by subtracting a fixed percentage of twenty percent (20%), plus any unbuildable land area from the total land area and dividing the remaining land area by the minimum lot area permitted within the residential district in accordance with § 106-11, Schedule of Area and Bulk Regulations.

B. Central water supply and common sewage disposal facilities shall be provided in accordance with the requirements of the Town of Harrietstown and the New York State Departments of Health and Environmental Conservation.

C. While either attached, semidetached or detached dwelling units are permissible, no individual structure shall contain more than six (6) attached units. Minimum required side yards shall be provided at the ends of said structure.

D. The maximum height shall be restricted to thirty-five (35) feet, as otherwise applicable for residential uses within the Town of Harrietstown.

E. Common open space totalling not less than twenty-five percent (25%) of the total development site shall be provided in perpetuity. At least ten percent (10%) of the total land area within the cluster development shall consist of common open space which does not lie within the minimum required front, rear and side yards, as specified.

F. A homeowners' association or similar mechanism, for the long-term ownership and maintenance of common open space shall be provided, subject to approval of the Town Planning Board. Provision, satisfactory to the Town of Harrietstown, shall also be made for the long-term ownership and maintenance of roadways, drainageways and other improvement features within the cluster development.

G. Common driveway access shall be provided to a cluster development to the extent considered practicable by the Planning Board.

H. The minimum front, rear and side yards required by the Schedule of Area and Bulk Regulations[10] for the zoning

[10] Editor's Note: The Schedule of Area and Bulk Regulations is included at the end of this chapter.

district in which the cluster development is proposed or the most restrictive residential zoning district to which it abuts shall be increased by fifty percent (50%) to establish the minimum front, rear and side yards required for the cluster development.

I. The minimum number of residential dwelling units that may be considered within a cluster development shall be five (5) dwelling units.

§ 106-53. Planned resort development. [Added 10-15-1992 by L.L. No. 1-1992]

A. Intent and objectives.

(1) The Planned Resort Development rezoning procedure provides a flexible land use and design regulation through the use of performance criteria so that large-scale resort development may be matched with sensitivity to the unique characteristics of its site and innovative development techniques may be accommodated that might not otherwise be possible through strict applications of standard land use regulation and subdivision requirements. The conventional use, area, bulk and density specifications set forth by other sections of this chapter are intended to be replaced by the approved PRD District plan, which then becomes the basis legislatively established by the Town Board through rezoning for detailed design, review and control of subsequent development.

(2) While flexibility in substantive regulations is thus encouraged, it is intended that this uniform procedure and the required conformance with the Town Comprehensive Plan and the purposes of this chapter, as specified in § 106-2, shall ensure the general welfare through equal treatment under the

law as well as precise control of aspects of the development as approved.

B. General criteria. The legislative determination to establish a Planned Resort Development (PRD) District shall be based upon the following standards:

(1) Location. A Planned Resort Development (PRD) District may be established on any lands within the Town of Harrietstown but only if the objectives and provisions of this chapter are satisfied as determined by the Town Board.

(2) Development area. The minimum development area required to qualify for a Planned Resort Development District shall be twenty-four (24) contiguous acres of land.

(3) Ownership. The tract of land for a project may be owned, leased or controlled either by a single person or corporation or by a group of individuals or corporations. An application must be filed by the owner or jointly by the owners of all property included in the project. In the case of multiple ownership, the approved plan and its amendments shall be binding on all owners or their successors in title and interest.

(4) Permitted uses in PRD Districts.

(a) All uses within an area designated as a Planned Resort Development District shall be determined in accordance with the provisions of this section and the approved plan of the project concerned.

(b) All Planned Resort Development (PRD) Districts shall include a mix of uses from within at least two (2) of the categories of recreation and open space uses, lodging and tourist services and multifamily or cluster residential development. Eligible principal uses within the PRD District may be limited to those principal

uses listed below, but not limited to each of the categories:

[1] Recreation and open space uses.

[a] Forestry and conservation uses.

[b] Parks and recreation areas.

[c] A golf course and country club.

[d] A commercial recreation or amusement facility.

[e] A riding academy.

[f] Waterfront uses.

[g] A marina or boatyard.

[h] A nonprofit membership club or nonprofit recreation use.

[2] Lodging and tourist services.

[a] A day camp, camp, cottage or cabin development.

[b] Cultural facilities (library, art gallery, museum, etc.).

[c] A gasoline station, including convenience retail facilities.

[d] A hotel or motel development.

[e] A restaurant.

[f] A theater or concert hall.

[g] Tourist homes and bed-and-breakfast establishments.

[h] Vacation resorts.

[i] Health-related facilities.

[3] Residential uses.

[a] Residential cluster development in accordance with the standards and criteria set forth within Article IX of this chapter, with it further provided that such housing shall be restricted to attached condominium, cooperative or rental dwelling units or single-family dwellings, fee simple townhouses also included.

(c) Customary accessory uses shall also be eligible for inclusion in a PRD District project plan. Such accessory uses may include:

[1] Home occupations.

[2] Private garages, storage spaces, recreational and community facilities as appropriate to the needs of the residents within the proposed PRD development or to the nonresidential uses located there.

[3] Limited neighborhood convenience retail, service and other nonresidential uses within the residential portion of a PRD District where such are scaled to primarily serve the residents of the proposed PRD development and are operated and maintained under the control of the PRD District's homeowners' association. The aggregate floor area of such convenience retail, service or nonresidential uses shall not exceed three percent (3%) of the aggregate residential floor area within the PRD.

[4] Recreation and community facilities serving both the residents of the proposed PRD development and the surrounding community to extend and enhance cultural and recreational opportunities within the town, provided that the facilities are

available to the residents of the proposed PRD District on an acceptable priority basis, e.g., a day-care center.

(d) Furthermore, all uses listed as eligible for inclusion within a PRD District under the recreation and open space use and the lodging and tourist service categories shall be construed to include subordinate uses, e.g., small shops and personal uses, customarily accessory to the principal use and having as their primary clientele the visitors to or users of the principal use.

(5) Intensity of residential land use.

(a) The residential density allowed within the Planned Resort Development District shall be determined by the approved Planned Resort Development District site plan. Where a Planned Resort Development District occurs by rezoning of a prior residential district (R-1, R-2 or R-3) as established by this chapter, the gross density may be increased from that otherwise permitted in the Schedule of Area and Bulk Regulations[11] for the prior residential district to a maximum of one hundred fifty percent (150%) of the permitted number of lots or dwelling units within a residential cluster development under § 281 of the Town Law, the Land Subdivision Regulations of the Town of Harrietstown[12] and § 106-52 of this chapter.

(b) The maximum fifty-percent density bonus or some portion thereof may be authorized at the discretion of the Town Board upon satisfaction

11 Editor's Note: The Schedule of Area and Bulk Regulations is included at the end of this chapter.

12 Editor's Note: See Ch. 93, Subdivision of Land.

of a minimum of one (1) of the following performance criteria:

[1] Developer-financed highway and intersection improvements which result in an improvement in the capacity of potentially impacted highways or the level of service of potentially impacted intersections;

[2] Developer participation in a town-defined affordable housing program (fair market rates are established by the Department of Housing and Urban Development for Franklin County);

[3] Provision by the developer of a site or an improvement essential for the development of the municipal water and/or sanitary sewage system;

[4] Dedication by the developer of significant public open space; and

[5] Grant by the developer of perpetual conversation easements covering five percent (5%) or more of the tract.

(6) Water supply and sewage disposal. Any Planned Resort Development District shall be served by both water supply and sewage disposal facilities in accordance with the requirements of the Town of Harrietstown and the New York State Departments of Health and Environmental Conservation.

(7) Building structure requirements. The building shall not occupy more than sixty-five percent (65%) of the total Planned Resort Development District tract.

(8) Intensity of nonresidential land use. The nonresidential land use intensity allowed within a Planned Resort Development District shall be determined on a project-specific basis in accordance

with the intent and objectives of the PRD Distric rezoning procedure and the particular mix an configuration of uses proposed within the PRI District project plan. In making such determination the Planning Board and Town Board may be guide by the supplementary regulations set forth i Article VI and the extraordinary standards fo certain special permit uses stated in § 106-38 of thi chapter.

C. Review and approval procedure.

(1) Application.

(a) Application for establishment of a Planne Resort Development District shall be made, i writing, to the Town Board and shall b accompanied by the applicable fee in accordanc with the fee schedule established and annually reviewed by the Town Board. The applicatio shall also be accompanied by either a short en- vironmental assessment form or a full environ- mental assessment form as required by Article 8 of the Environmental Conservation Law and 6 NYCRR 617.

(b) The Town Board shall refer the application to the Town Planning Board or its designated planning consultant for review and recommen- dation within forty-five (45) days of the date o application. The Planning Board shall require the applicant to furnish basic site data pertaining to the boundaries of the proposed Planned Resort Development District, existing zoning, the topography and subsoil conditions and such land use, utility and access plans as may be required by the Planning Board for a reasonable understanding of the nature and character of the proposed development. Said plans shall generally be at the level of detail anticipated for a preliminary plat or site plan

submission under the town's Land Subdivision Regulations or Zoning Law but need not exhibit engineering and/or construction detail. When a project has already been approved by the Planning Board, that application and approval will be made a part of the application for a PRD District.

(2) Planning Board review.

(a) In its review of the application, the Planning Board shall consider, among other factors, the following:

[1] The need for the proposed land use or uses at the proposed location.

[2] The existing character of the neighborhood in which the use or uses would be located.

[3] The location of principal and accessory uses and buildings on the site in relation to one another.

[4] The pedestrian circulation and open space configuration in relation to structures.

[5] The traffic circulation features within the site, and the amount, location and access to automobile parking areas.

(b) The Planning Board may recommend at this stage such changes in the proposed Planned Resort Development District plans that it deems essential to protect established or permitted uses in the vicinity, promote and protect the orderly growth and sound development of the Town and otherwise meet the requirements of this chapter.

(c) Further, the Planning board may recommend to the Town Board at this stage the scope of the draft environmental impact statement (DEIS) that the applicant may prepare in accordance

with the provisions of this chapter and the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law, and related 6 NYCRR 617. The Planning Board shall also advise the Town Board, through its designated planning consultant, of the procedure to be followed to comply with the applicable State Environmental Quality Review Act requirements, with it required that all petitions for PRD District Zoning Map amendment be treated as the appropriate type of action under the State Environmental Quality Review Act.

(d) Upon satisfaction of all State Environmental Quality Review Act requirements, the Planning Board shall, within thirty (30) calendar days, recommend approval, approval with modifications or disapproval to the Town Board of such PRD District rezoning application.

(3) Town Board action. Upon receipt of the Planning Board's written report, the Town Board may then consider the legal establishment of the Planned Resort Development District through Zoning Map amendment. The procedure followed shall be as specified in Article XIII of this chapter.

D. Relationship to other requirements.

(1) Upon approval of the Planned Resort Development District by the Town Board, application shall be made within one (1) year for approval of all or some portion of the intended development, in accordance with the more specific review requirements of the town's Land Subdivision Regulations, the site plan review and approval procedure contained in Article VIII of this chapter and other applicable regulations.

(2) Additional performance requirements which may have been specified by the Town Board in its PRD

District approval actions, such as a time limit for either initiation or completion of improvements and other construction work on the proposed development, shall also be followed. The Town Board may act to return the property to its prior zoning district classification unless the Town Board, upon specific application and for good cause, authorizes an extension of such performance requirement.

E. Effect of conditions. All conditions imposed by the Town Board, including those the performance of which are conditions precedent to the issuance of any permit necessary for the development of all or any part of the entire site, shall run with the land and shall neither lapse nor be waived as a result of any subsequent change in the tenancy or conditions and shall further be a part of any certificate of occupancy issued for any use or structure in such development.

ARTICLE X
Nonconforming Uses, Structures and Bulk

§ 106-54. Applicability.

The following provisions shall apply to all buildings, structures and uses existing on the effective date of this chapter, to all buildings and uses that may become nonconforming or noncomplying by reason of any subsequent amendment to this chapter and the Zoning Map[13] which is a part thereof and to all complying buildings housing nonconforming uses.

[13] Editor's Note: The Zoning Map is on file and available for inspection in the office of the Town Clerk.

§ 106-55. Nonconforming uses.

A. Any lawful nonconforming use of buildings or open land in existence on the effective date of this chapter may be continued indefinitely but:

(1) Shall not be enlarged, altered, extended, reconstructed or restored, except as provided in this Article, or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this chapter, nor shall any external evidence of such use be substantially increased by any means whatsoever.

(2) Shall not be moved to another location where such use would be nonconforming.

(3) Shall not be changed to another nonconforming use without prior approval by the Zoning Board of Appeals and then only to a use which, in the opinion of the Board of Appeals, is of the same or a more restricted nature.

(4) Shall not be reestablished if such use has been discontinued for any reason for a period, whether through vacancy or cessation of use, of one (1) year or more or has been changed to or replaced by a conforming use, with the intent to resume a nonconforming use not conferring the right to do so.

B. While a nonconforming use may not be extended, nothing contained herein shall prohibit the extension of a lawful use to any portion of a noncomplying building or structure which existed prior to the enactment of this chapter. No nonconforming use shall, however, be extended to displace a conforming use. Furthermore, no change of title or possession of any such building, structure or lot shall be construed to prevent the continued nonconforming use of such building, structure or lot, except as hereinafter provided.

§ 106-56. Noncomplying buildings.

Nothing contained in this Article shall be deemed to prevent normal repair and maintenance of or structural alteration within a noncomplying building, provided that such action does not increase the degree of or create any new nonconformity. Further, any noncomplying building or structure declared unsafe by the Building Inspector in accordance with Chapter 43, Buildings, Unsafe, may be restored to a proper condition within the time period provided for such restoration.

§ 106-57. Restoration of damage.

Nothing contained in this Article shall be deemed to prevent the restoration of a lawful nonconforming use after damage for any reason or by any cause, provided that the bulk, height and area shall not be in excess of that which existed prior to the damage, that all applicable New York State Building Construction and Fire Code provisions are fully complied with and that the restoration must be commenced within six (6) months and completed within one (1) year of such occurrence or the use of such buildings or land as a legal nonconforming use shall thereafter be terminated.

§ 106-58. Termination of certain uses.

Each of the nonconforming uses specified in this Article is deemed sufficiently objectionable and out of character within the zoning district in which such use is located as to depreciate the value of other property and uses permitted in the district and otherwise inhibit the proper and orderly development of such district. Therefore, each such nonconforming use must be and shall be terminated on or before the expiration of the specified period of time after the effective date of this chapter.

A. Nonconforming signs. Any nonconforming or noncomplying sign, accessory or nonaccessory, including such features or locations as prohibited in § 106-21A herein, shall be modified by its owner to conform or be

removed within thirty (30) days after receipt by the owner of specific written notice from the Building Inspector to so comply.

B. Obsolete signs. Any sign existing on or after the effective date of this chapter which advertises a business no longer conducted, a product no longer available or a service no longer provided on the premises shall be removed by the owner of the sign and/or premises upon which the sign is located within ten (10) days after receipt of written notice from the Building Inspector to remove such obsolete sign.

C. Objectionable land uses.

(1) Any nonconforming use of open land, including but not limited to such uses as disposal areas, junkyards and motor vehicle junkyards, may be continued for a period of three (3) years after the effective date of this chapter, provided that after the expiration of such period, such nonconforming use shall be terminated. Notice of this provision shall be provided to any affected property owner within ninety (90) days of the adoption of this chapter.

(2) As an alternative to termination of the objectionable land use, upon specific application to the Zoning Board of Appeals, continuation of the use may be authorized by special permit upon strict compliance with all regulations established within the town's May 1963 licensing ordinance,[14] the site plan review and approval requirements stated within Article VIII of this chapter and the standards and procedures established within Article VII of this chapter.

[14] Editor's Note: Said licensing ordinance was deleted at time of adoption of Code.

ARTICLE XI
Administration and Enforcement

§ 106-59. Building Inspector; right of entry.

A. The Town Building Inspector shall administer and enforce all provisions of this chapter, except where otherwise herein specifically required. Whenever any permit is required herein, the same shall be applied for and shall be issued in the first instance from the office of the Building Inspector in accordance with the requirements of this chapter and applicable regulations governing building construction and the issuance of building permits.

B. The Building Inspector shall have the right to enter upon, examine and inspect or cause to be entered, examined and inspected any building or property at any reasonable time for the purpose of carrying out his duties and to determine compliance with the provisions of this chapter. A written report of each such examination and inspection shall be prepared on an appropriate form and kept on file by the Building Inspector.

§ 106-60. Powers and duties of Building Inspector.

In addition to all other authority conferred by law, the Building Inspector shall have the following powers and duties with respect to this chapter:

A. Issuance of building permits.

(1) Except as provided in § 106-15C as it pertains to portable accessory structures, no building or structure shall be erected, altered, reconstructed or enlarged and no excavation for any building begun, nor shall substantial alteration of or additions to facilities such as sewage disposal systems, electrical systems and water supply systems, including plumbing or drainage facilities, be undertaken until the Building Inspector has issued a building permit

stating that the proposed use and structure comply with all applicable provisions of this chapter.

(2) All building permit applications shall be accompanied by two (2) copies of a plot plan or an approved site plan drawn to scale and accurately dimensioned, showing the location of all existing and proposed structures on the lot and such other information as may be required by the Building Inspector to determine compliance with this chapter and other applicable regulations. One (1) copy of such plan, when approved by the Building Inspector, shall be returned to the applicant upon payment of the required building permit fee in accordance with a schedule established and reviewed annually by the Town Board.

B. Issuance of certificates of occupancy or use.

(1) Except as provided in § 106-15C as pertains to portable accessory structures, no use shall be established or land or structure occupied or otherwise used until the Building Inspector has issued a certificate of occupancy or use stating that the use, land and structure comply with all applicable provisions of this chapter.

(2) More particularly, no certificate of occupancy or use shall be issued for any special use of a building or of land requiring special permit or site plan approval by the Planning Board unless and until such special permit or site plan approval has been granted by the Planning Board. Every certificate of occupancy or use for which special permit or site plan approval has been granted or in connection with which a variance has been granted by the Board of Appeals shall contain a detailed statement of any condition to which the same is subject and include, by attachment, a copy of such Board of Appeals decision.

C. Issuance of notices of violation. Whenever, in the opinion of the Building Inspector, after proper examination and inspection, there appears to exist a violation of any provision of this chapter or of any rule or regulation adopted pursuant thereto, he shall, on his own initiative, serve a written notice upon the appropriate person responsible for such alleged violation. Such notice shall be served by certified mail and shall inform the recipient of the following:

(1) The nature and specific details of such violation.

(2) The date of compliance by which the violation must be remedied or removed, which period shall not exceed ten (10) days from the receipt of such notice.

D. Issuance of stop orders. Whenever the Building Inspector has reasonable grounds to believe that work on any building or structure or any use of land is occurring either in violation of the provisions of this chapter, not in conformity with any application made, permit granted or other approval issued hereunder or in an unsafe or dangerous manner, the Building Inspector shall promptly notify the appropriate person responsible to suspend work on any such building or structure or the use of any such land. Such persons shall forthwith suspend such activity until such time that the stop order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work or use may be resumed and may be served upon the person to whom it is directed either by delivering it personally to him or by posting the same upon a conspicuous portion of the building under construction or premises in use and additionally sending a copy of the same by certified mail.

E. Taking of emergency action. If, in the opinion of the Building Inspector, a violation exists which requires immediate action to avoid a direct hazard or imminent danger to the health, safety or welfare of occupants of a building or to other persons, the Building Inspector may

direct such violation to be immediately remedied or may take direct action on his own initiative to abate the hazard or danger. Any costs incurred by such action shall be paid for by the owner, occupant or person responsible for the violation. The Building Inspector shall keep on file an affidavit stating with fairness and accuracy the items of expense and date of execution of action taken and is furthermore authorized to institute a suit, if necessary, against the person liable for such expenses or to place a lien against property in order to recover said costs.

§ 106-61. Penalties for offenses.

A. Civil penalty. Violation of any provision or requirement of this chapter or violation of any statement, plan, application, permit or certificate approved under the provisions of this chapter shall be considered an offense punishable by a fine of not more than two hundred fifty dollars ($250.) and/or imprisonment for not more than six (6) months for each such offense. The owner, general agent or contractor of a building premises or part thereof where such a violation has been committed or does exist and any agent, contractor, architect, builder, corporation or other person who commits or takes part or assists in such violation shall be liable for such an offense. All such penalties shall be collectible by and in the name of the town; each and every day that any such violation continues after notification that such violation exists shall constitute a separate offense. Such notice shall be given, in writing, by the Building Inspector and shall be served by certified mail or personal service.

B. Court action. The imposition of penalties herein prescribed shall not preclude the town or any person from instituting appropriate legal action or proceedings in a court of competent jurisdiction to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use or to

restrain by injunction, correct or abate a violation or to prevent the illegal occupancy of a building, land or premises.

C. Taxpayer action. If the Building Inspector fails or refuses to act upon or to refer a violation of this chapter to the Town Attorney for legal action in accordance with the provisions contained herein within a ten-calendar-day period following written request by any taxpayer to so proceed, then any three (3) or more taxpayers of the Town of Harrietstown may institute appropriate legal action in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

ARTICLE XII
Zoning Board of Appeals

§ 106-62. Board created; membership; organization. [Amended 8-27-1987 by L.L. No. 2-1987]

A Zoning Board of Appeals is hereby created in accordance with § 267, Article 16 of the Town Law. Said Board shall consist of seven (7) members appointed by the Town Board for terms of five (5) years. All members are subject to removal by the Town Board for cause after public hearing. The Town Board shall annually designate the Chairman of the Board of Appeals, while the Board of Appeals shall annually designate its Secretary and may prescribe in its bylaws reasonable rules in addition to those provided herein for the conduct of its affairs.

§ 106-63. Powers and duties.

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

A. Interpretation. To hear and decide on questions where it is alleged there is an error in any order, requirement,

decision or determination made by the Building Inspector involving the interpretation of any provision of this chapter or, on request by an administrative official, board or agency of the town, to decide any of the following questions:

(1) Determination of the meaning of any portion of the text of this chapter or of any conditions or requirement specified or made under the provisions of this chapter.

(2) Determination of the exact location of any district boundary shown on the Zoning Map.[15]

B. Issuance of special permits. In authorizing any special permit use, as specified in Article IV, Use Regulations, the Board of Appeals shall take into consideration the public health, safety and general welfare and the comfort and convenience of the public in general and that of the residents of the immediate neighborhood in particular. The Board of Appeals shall also take into strict account the general standards for special permit uses set forth in § 106-37 of this chapter and the more specific standards for certain special permit uses set forth in §§ 106-38 and 106-39 herein.

C. Variances. To authorize, upon appeal in specific cases, such variances from the terms of this chapter as will not be contrary to the public interest where, due to exceptional and extraordinary circumstances, there are unnecessary hardships or practical difficulties in the way of carrying out the strict letter of this chapter subject to terms and conditions to be fixed by the Board; provided, however, that no such variance shall be granted unless the Board finds that:

(1) There are physical conditions, such as the case of an exceptionally irregular, narrow, shallow or steep lot, fully described in the findings of the Board, applying

[15] Editor's Note: The Zoning Map is on file and available for inspection in the office of the Town Clerk.

to the land or building for which the variance is sought, which conditions are peculiar to such land or building and have not resulted from any act of the applicant or any predecessor in title;

(2) For reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building and the granting of the variance is necessary for the reasonable use of the land or building, and that the variance as granted by the Board is the minimum variance that will accomplish this purpose; and

(3) The granting of the variance under such conditions as the Board may deem necessary or desirable to apply thereto will be in harmony with the general purpose and intent of this chapter, will not represent a radical departure therefrom, will not be injurious to the neighborhood, will not change the character thereof and will not be otherwise detrimental to the public welfare.

§ 106-64. General procedures.

In carrying out its responsibilities under § 106-63, the Zoning Board of Appeals shall act in strict accordance with the procedure specified by § 267 of the Town Law and this chapter.

A. Meetings. Meetings shall be held at the call of the Chairman or at such other times as the Board of Appeals may determine. A quorum shall consist of three (3) members, but in order to reverse a decision of the Building Inspector, issue an interpretation or special permit or authorize a variance, an affirmative vote of at least (3) members shall be required. A favorable vote of a majority plus one (1) shall also be required if the action taken is contrary to an advisory recommendation received from the Franklin County Planning Board

under the provisions of §§ 239-l and 239-m of the General Municipal Law. The Board shall keep minutes of its proceedings showing the vote of each member upon each question and shall keep records of its examinations and other official actions. All meetings of the Board of Appeals shall be open to the public.

B. Application and fee. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board, within thirty (30) days of the action appealed from, and shall be accompanied by the applicable fee in accordance with the fee schedule established and annually reviewed by the Town Board. Every appeal or application shall refer to the specific provision of this chapter that is involved and shall precisely set forth either the interpretation that is claimed or the details of the action that is applied for and the grounds on which it is claimed that such action should be granted.

C. Public notice and hearing. The Board shall fix a reasonable time and place for a public hearing on any such appeal or application, of which hearing date the appellant shall be given notice and at which hearing he shall appear in person or by agent. The Board shall additionally provide notice as follows:

(1) By publishing, at least ten (10) calendar days prior to the date thereof, a legal notice in the official newspaper of the town.

(2) By requiring the Secretary of the Board of Appeals to provide notice, at least five (5) calendar days prior to the date thereof, of the substance of every appeal or application, together with a notice of the hearing thereon, by mailing such to the owners of all property abutting that held by the applicant. Compliance with this notification procedure shall be certified by the Secretary.

(a) The names of owners notified shall be taken as such appear on the last completed tax roll of the town.

(b) Provided that there has been substantial compliance with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Board of Appeals in connection with granting or denying of an appeal or application.

(3) By requiring the Secretary of the Board of Appeals to transmit to the Secretary of the Planning Board a copy of any appeal or application, together with a copy of the notice of such hearing, at least twenty (20) calendar days prior to the date thereof. The Board of Appeals shall request that the Planning Board submit to the Board of Appeals an advisory opinion prior to the date of such hearing. Upon failure of the Planning Board to submit such report, said Board shall be deemed to have recommended approval of the application or appeal.

(4) If the land involved in the appeal lies within five hundred (500) feet of the boundary of any other municipality, the Secretary of the Board of Appeals shall also submit, at least five (5) calendar days prior to the public hearing, to the Municipal Clerk of such other municipality or municipalities, a copy of the notice of the substance of every appeal, together with a copy of the official notice of such public hearing.

D. Required referral.

(1) A full statement of any appeal or special permit application that meets the referral requirements of §§ 239-l and 239-m of the General Municipal Law shall also be referred prior to the public hearing to the Franklin County Planning Board for its review.

(2) Such actions shall include those which affect property located within five hundred (500) feet of the following:

(a) A municipal boundary.

(b) A boundary of any existing or proposed county or state park or other recreation area.

(c) A right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway.

(d) An existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines.

(e) An existing or proposed boundary of any county- or state-owned land on which a public building or institution is situated.

(3) No action shall be taken by the Board of Appeals on such appeal or special permit application until an advisory recommendation has been received from said County Planning Board or thirty (30) calendar days have elapsed since the Planning Board received such full statement.

E. Decisions. Every decision of the Board of Appeals shall be recorded in accordance with standard forms adopted by the Board and shall fully set forth the circumstances of the case and shall contain a full record of the findings on which the decision is based. Every decision shall be by resolution of the Board, with each such decision being filed in the office of the Town Clerk within ten (10) calendar days thereof. The Board shall also notify the Building Inspector, the Secretary of the Planning Board and any affected municipality given notice of hearing of its decision in each case. If applicable, a report on the action taken shall also be filed within seven (7) calendar days of said action with the Franklin County Planning Board.

F. Attachment of conditions. In all cases where the Board of Appeals grants a variance from the strict application of the requirements of this chapter, it shall be the duty of such Board to attach such conditions and safeguards as

Environmental Conservation that the land shown on said map has been acquired by the State of New York as part of the forest preserve or for other purposes under the administrative jurisdiction of said Department, initiate proceedings to amend the Zoning Map to reclassify the land to the C-1 District in accordance with the provisions of this section.

§ 106-68. Referral to Planning Board; report.

A. All proposed amendments, supplements or changes originating by petition or by motion of the Town Board shall be referred to the Planning Board for a report and recommendation thereon, provided that, in connection with proposed Zoning Map amendments involving changes to the C-1 District, the referral shall be for informational purposes only and the Planning Board shall not be required to report thereon. In undertaking such review, the Planning Board shall make inquiry and provide recommendation concerning the items specified below:

(1) Whether such change is consistent with the purposes embodied in this chapter as applied to the particular districts concerned.

(2) Which areas and establishments in the town will be directly affected by such change and in what way will they be affected.

(3) Whether adequate public services and other support facilities exist or can be created to serve the needs of any additional development that may occur as a result of such change.

(4) The indirect implications of such change in its effect on other regulations.

B. The Planning Board shall submit its report within forty-five (45) days after receiving such referral. Failure of the Planning Board to report within the required time shall

be deemed to be a recommendation of approval of the proposed amendment.

§ 106-69. Public notice and hearing.

The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendment and cause notice thereof to be given as follows:

A. By publishing a notice at least ten (10) calendar days prior to the time of such hearing in the official newspaper of the town, specifying:

(1) The nature of the proposed amendment;

(2) The land or district affected; and

(3) The date, time and place where the public hearing shall take place.

B. By providing a copy of such notice of any proposed change or amendment affecting property within five hundred (500) feet of any other municipality to the Clerk of such municipality at least ten (10) calendar days prior to the date of such public hearing.

§ 106-70. Referral to County Planning Board.

The Town Board shall transmit a full statement of any proposed amendment, either map or text, that meets the referral requirements of §§ 239-l and 239-m of the General Municipal Law to the Franklin County Planning Board for its review and recommendation. No action shall be taken by the Town Board on such proposed amendment until a recommendation has been received from the Franklin County Planning Board or thirty (30) calendar days have elapsed since said Board received such full statement.

§ 106-71. Environmental quality review.

Proposed amendments are actions subject to the provisions of the New York State Environmental Quality Review Act.[17] Prior to formal consideration and public hearing, the Town Board shall make a determination as to the type of action, lead agency status and environmental significance of the proposal in accordance with Article 8 of the Environmental Conservation Law and 6 NYCRR 617.

§ 106-72. Town Board action.

The Town Board may approve any such proposed amendment by a majority vote of said Board, except that a favorable vote of at least four (4) members of the Town Board, i.e., a majority plus one (1), shall be required if:

A. Action being taken is contrary to the advisory recommendation received from the Franklin County Planning Board under the provisions of §§ 239-l and 239-m of the General Municipal Law; or

B. In accordance with the provisions of § 265 of the Town Law, a protest petition against such amendment has been duly signed and acknowledged by the owners of at least twenty percent (20%) of the land area included in such proposed change or of that immediately adjacent extending one hundred (100) feet therefrom or that directly opposite, separated only by a private or public thoroughfare.

[17] Editor's Note: See Art. 8 of the Environmental Conservation Law.

ARTICLE XIV
Miscellaneous Provisions

§ 106-73. Construal of provisions; greater restrictions to apply.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety or the general welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances or local laws, the more restrictive provisions or those imposing the highest standards shall govern. Furthermore, this chapter shall not be deemed to interfere with, abrogate, annul or otherwise affect any easements, covenants or other agreements between parties, provided that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger open spaces than are required by those easements, covenants or agreements, the provisions of this chapter shall prevail.

§ 106-74. Existing violations.

No site plan or special permit shall be approved, no building permit or certificate of occupancy or use issued or variance granted under this chapter for premises upon which there is an existing violation of this chapter or any related town regulation governing either building construction or the use of land and structures within the Town of Harrietstown. This limitation does not, however, prohibit such an approval, issuance or grant with respect to a legal nonconforming use or legal noncomplying structure.

§ 106-75. Periodic review required.

From time to time, at intervals of not more than five (5) years, the Planning Board shall conduct a review of the effectiveness of the provisions of this chapter, including the

location of district boundaries, and shall submit a report thereon to the Town Board, recommending such changes or amendments, if any, which may be desirable in the interest of public safety, health, convenience, necessity or welfare.

§ 106-76. Superseded legislation.

The Zoning Ordinance of the Town of Harrietstown, New York, enacted by the Town Board on May 27, 1971, together with all changes and amendments thereto, is hereby comprehensively amended and superseded by this chapter.

Town of Harrietstown
Schedule of Use Regulations,
Part 1

Town of Harrietstown
Schedule of Use Regulations, Part 1

KEY:
P = Permitted use
SP = Special permit required (See Article VII.)
X = Prohibited use in specified district
* = Site plan review required for permitted or special permit use (See Article VIII.)

Structure/Land Use	Conservation C-1	Rural Residential R-1	Shorefront Residential R-2	General Residential R-3	Retail Business B-1	General Business B-2	Resort Business B-3	General Industrial I-1
Residential uses								
Single-family dwelling	All uses determined by NYSDEC	P	P	P	P	P	P	X
2-family dwelling		X	X	P	P	P	X	X
Residential cluster development in accordance with Art. IX		P*	P*	P*	P*	P*	X	X
Multifamily dwelling		X	X	P*	P*	P*	X	X
Individual mobile home		SP	X	SP	X	X	X	X
Mobile home park		X	X	SP*	X	X	X	X
Community residence		X	X	SP*	SP*	SP*	X	X
Boarding- and rooming houses		X	X	SP*	P*	P*	P*	X
General uses								
Forestry and conservation uses	All uses determined by NYSDEC	P	P	P	P	P	P	P
Parks and recreation areas		P*	P*	P*	P*	P*	P*	P*
Municipal buildings		P*	P*	P*	P*	P*	P*	P*
Agriculture (not including the keeping of fowl or animals)		P*	X	P	P	P	P	P
Agriculture (including the keeping of fowl or animals)		P	X	P	X	X	P	X
Golf course or country club		P*	P*	X	X	X	P*	X
Nonprofit membership club or nonprofit recreation use		SP*	SP*	SP*	P*	P*	P*	X
Day camp, camp, cottage or cabin development		X	X	X	X	SP*	SP*	X
Church or other place of worship		SP*	SP*	SP*	SP*	SP*	SP*	X
Private or public academic schools and colleges		SP*	SP*	SP*	SP*	SP*	SP*	X
Nursery school or day nursery		SP*	SP*	SP*	SP*	SP*	SP*	X
Cultural facilities (library, art gallery, museum, etc.)		SP*	SP*	SP*	SP*	SP*	SP*	X
Institution or philanthropic uses, not otherwise stated herein		SP*	SP*	SP*	SP*	SP*	SP*	X
Hospital, nursing home or medical clinic		SP*	X	SP*	SP*	SP*	X	X
Cemetery or crematory for humans		SP*	X	X	X	X	X	X
Correctional institution		SP*	X	X	X	X	X	X
Airport		SP*	X	X	X	X	X	SP*
Seaplane base		X	X	X	X	X	SP*	X
Grading, filling and clearing of land		SP	SP	SP	SP	SP	SP	SP

Town of Harrietstown
Schedule of Use Regulations,
Part 2

Town of Harrietstown
Schedule of Use Regulations, Part 2

KEY:
P = Permitted use
SP = Special permit required (See Article VII.)
X = Prohibited use in specified district
* = Site plan review required for permitted or special permit use (See Article VIII.)

Structure/Land Use	Conservation C-1	Rural Residential R-1	Shorefront Residential R-2	General Residential R-3	Retail Business B-1	General Business B-2	Resort Business B-3	General Industrial I-1
Accessory uses								
Customary accessory use or structure incident to any of the uses mentioned herein and on the same lot	All uses determined by NYSDEC	P	P	P	P	P	P	P
Special waterfront accessory uses (boathouse, deck, etc.)		SP	SP	SP	SP	SP	SP	X
Home occupation, Class I (located in the principal dwelling)		P	P	P	P	P	P	X
Home occupation, Class II (located in an accessory building)		SP	SP	SP	SP	SP	SP	X
Roadside stand, in accordance with § 106-38		SP	SP	SP	SP	SP	SP	X
Business uses								
General or professional office	All uses determined by NYSDEC	X	X	X	P*	P*	P*	P*
Retail business or personal service establishment, not otherwise specifically mentioned herein		X	X	X	P*	P*	P*	P*
Commercial recreation or amusement facility (e.g., golf driving range, swimming pool, drive-in theater, stadium, video arcade, bowling alley or skating rink)		X	X	X	X	X	SP*	X
Limited neighborhood business uses, in accordance with § 106-38		SP	X	X	X	X	X	X
Automobile or equipment rental and sales		X	X	X	X	SP*	X	SP*
Automobile repair facility		X	X	X	X	SP*	X	SP*
Campground or recreational vehicle park		X	X	X	X	SP*	SP*	X
Car wash		X	X	X	X	SP*	X	SP*
Funeral home		X	X	X	P*	P*	P*	P*
Gasoline station, including convenience retail facilities		X	X	X	SP*	SP*	SP*	SP*
Hotel or motel development		X	X	X	P*	P*	P*	X
Marina or boatyard		X	X	X	X	X	P*	X
Newspaper offices and printing		X	X	X	X	P*	X	P*
Restaurant		X	X	X	P*	P*	P*	P*
Riding academy		SP*	X	X	X	SP*	SP*	X
Self-service laundry		X	X	X	P*	P*	P*	P*
Tavern, bar or nightclub		X	X	X	SP*	P*	P*	X

Town of Harrietstown
Schedule of Use Regulations,
Part 3

Town of Harrietstown
Schedule of Area and Bulk Regulations

Zoning District	Minimum Lot Area (acres)	Minimum Lot Area (square feet)	Maximum Structure Coverage (percent)	Minimum Open Space (percent)	Maximum Structure Height (feet)	Minimum Lot Width (feet)	Minimum Setback or Yard Requirements[2] Front[1] (feet)	Side (feet)	Rear (feet)
Conservation (C-1)	As determined by NYSDEC								
Rural Residential (R-1)									
Shoreline lot:									
With central water and common sewer	.5		25	25	35	100	50	12	25
With central water or common sewer	.75		20	35	35	120	50	15	30
Without central water or common sewer	1.0		15	45	35	150	50	20	40
Nonshoreline lot									
With central water and common sewer		10,000	30	25	35	80	30	10	20
With central water or common sewer		15,000	25	30	35	100	30	12	25
Without central water or common sewer		20,000	20	35	35	120	30	20	30
Shorefront Residential (R-2)									
With central water and common sewer	.5		25	25	35	100	30	12	25
With central water or common sewer	.75		20	35	35	120	30	15	30
Without central water or common sewer	1.0		15	45	35	150	30	20	40
General Residential (R-3)									
1-family or 2-family dwellings									
With central water and common sewer		10,000	30	25	35	80	30	10	20
With central water or common sewer		15,000	25	30	35	100	30	12	20
Without central water or common sewer		20,000	20	35	35	120	30	20	20
Multifamily dwellings[3]									
With central water and common sewer:									
For first 3 dwelling units		15,000	30	25	35	100	50	12	25
For each additional dwelling unit		3,000							
With central water or common sewer:									
For first 3 dwelling units		20,000	25	30	35	120	50	15	30
For each additional dwelling unit		4,000							
Without central water or common sewer:									
For first 3 dwelling units		24,000	20	35	35	150	50	20	40
For each additional dwelling unit		5,000							
Retail Business (B-1)	1.0[4]		30	40	40	150	50	25	25
General Business (B-2)	2.0[4]		30	40	40	200	50	50	50
Resort Business (B-3)	2.0[4]		30	40	40	150	50	25	25
General Industrial (I-1)	2.0[4]		30	30	40	200	50	50	50

NOTES:

[1] If no right-of-way can be determined, the minimum front setback in any district shall be increased by twenty-five (25) feet and shall be measured from the center line of the existing roadway.

[2] In any district, the minimum setback of a principal building, whether considered a front, side or rear yard, shall be fifty (50) feet from the shoreline at mean high water of any lake, pond, river or stream within the town.

[3] No multifamily structure shall contain more than six (6) dwelling units, nor may any group of structures exceed a total of thirty (30) dwelling units.

[4] The minimum lot area for B-1, B-2, B-3 and I-1 Districts may be reduced by thirty percent (30%) if public water and sewer are provided.

Town of Harrietstown
Schedule of Use Regulations, Part 3

KEY:
P = Permitted use
SP = Special permit required (See Article VII.)
X = Prohibited use in specified district
* = Site plan review required for permitted or special permit use (See Article VIII.)

Structure/Land Use	Conservation C-1	Rural Residential R-1	Shorefront Residential R-2	General Residential R-3	Retail Business B-1	General Business B-2	Resort Business B-3	General Industrial I-1
Technical or vocational school conducted for profit	All uses determined by NYSDEC	X	X	X	X	P*	X	P*
Theater or concert hall		X	X	X	P*	P*	P*	P*
Tourist home and bed-and-breakfast establishment		X	X	SP*	P*	P*	P*	X
Vacation resort		X	X	X	P*	P*	P*	X
Veterinarian's office, animal hospital or kennel and animal cemetery		X	X	X	X	SP*	X	SP*
Light industrial uses								
Agricultural service uses	All uses determined by NYSDEC	SP*	X	X	X	SP*	X	P*
Manufacture, fabrication, extraction, assembly, warehousing and other handling of material		X	X	X	X	SP*	X	P*
Research laboratory and similar uses		X	X	X	X	P*	X	P*
Wholesale business or sales, not otherwise specifically mentioned herein		X	X	X	X	P*	X	P*
Contractor's yard		X	X	X	X	SP*	X	SP*
Junkyard and similar uses		X	X	X	X	X	X	SP*
Laundry, dry-cleaning plant or printing plant		X	X	X	X	P*	X	P*
Mining and quarrying operation		X	X	X	X	X	X	SP*
Public utility station or structure		SP*	SP*	SP*	SP*	SP*	SP*	P*
Public utility or transportation use, including garage and maintenance facilities		X	X	X	X	SP*	SP*	P*
Radio and television receiving and transmitting antenna		SP*	X	X	X	SP*	X	SP*
Sanitary landfill and other approved waste disposal sites		X	X	X	X	X	X	SP*

Town of Harrietstown
Schedule of Area and Bulk Regulations