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WINDSOR TOWN CODE

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§ 93-109 Authority.

[HISTORY: Adopted by the Town Board of the Town of Windsor 2-9-66.¹ Amended 4-2-97 LL No. 1-1997,Amendments noted where applicable.]

¹Adopted as Ch. 28 of the 1972 Code of the Town of Windsor.

GENERAL REFERENCES

Burials and burial grounds - See Ch. 41.

Mobile homes and trailers - See Ch. 64.

ARTICLE I
General Provisions

§ 93-1. Purpose.

This chapter has been established in order to encourage the most appropriate use of land and protect and conserve the value of property; and promote the health, safety, morals and general welfare of the community; to regulate the location, use and occupancy of buildings and the use of land for trade, industry, residence and other uses; to regulate and limit the height and bulk of buildings and other structures; to regulate and determine the area of yard and other open spaces; to regulate the density of population; and for said purpose to divide the town into districts; to provide for its administration and enforcement; and to prescribe penalties for the violation of its provisions.

§ 93-2. Title.

This chapter may be known and may be cited as the "Town of Windsor Zoning Ordinance".

§ 93-3. Word usage.

For the purpose of this chapter, certain terms and words shall be interpreted to have the following meanings; words, used in the present tense include the future, the plural includes the singular; the word "plot" includes the word "lot"; the word "building" includes the word "structure"; the word "shall" is intended to be mandatory; the word "occupied" includes the words "designed, intended or arranged for occupancy"; and the word "person" may include more than one (1) person, an association, a co-partnership or a corporation.

§93-4. Definitions.

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

ACCESSORY BUILDING - A detached subordinate building, the use of which is customarily incidental to that of a principal building and located on the same lot with such principal building.

ACCESSORY USE - A use incidental and subordinate to the principal use and located on the same lot with such principal use.

ADMINISTRATIVE OFFICER - The person duly designated by the Town Board who shall be responsible as the agent of the Town Board for the administration and enforcement of the Zoning Ordinance.

AGRICULTURE - The use of land for agricultural purposes, including farming, dairying, horticulture, floriculture, animal and poultry husbandry and such accessory uses incidental to the normal agricultural activities.

BUILDING - A structure having a roof supported by columns or walls.

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

BUILDING, FRONT LINE OF - The line of that face of the building nearest the front line of the lot. This face shall include bay windows, covered porches, whether enclosed or unenclosed, or any projections thereof, which are over fifty (50) square feet in area.

BUILDING, HEIGHT OF - The vertical distance from the mean finished grade to the highest point of the building measured at the front wall of the building.

BUILDING, PRINCIPAL - A building in which the principal use of the lot on which it is located is conducted. In an "A" Agriculture District the "principal building" shall be the dwelling unit.

BUILDING, PUBLIC - A structure owned or leased by a municipal government, i.e., town, village, county, state, federal.

DWELLING, MULTIPLE - A building or portion thereof containing three (3) or more dwelling units.

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

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

DWELLING UNITS - A building or portion thereof providing complete housekeeping facilities for one (1) family.

FAMILY - One (1) or more persons occupying a dwelling unit and living as a single housekeeping unit.

FARM - Any parcel of land which is used for the raising of agricultural products or the keeping of poultry, fowl, livestock or other domestic animals, including necessary farm structures and the storage of farm equipment

FLOOD - A temporary rise in stream flow or stage that results in water over-running its banks inundating areas adjacent to the channel.[Added 1-8-75]

FLOOD FRINGE - That portion of the Flood Hazard District outside the floodway.[Added 1-8-75]

FLOOD HAZARD DISTRICT - All that land adjacent to a body of water which has been or may be hereafter covered by a flood having an average frequency of occurrence in the order of once in one hundred (100) years, although the flood may occur in any year. The "Flood Hazard District" includes both a floodway and a flood fringe. The outer boundaries of the areas are coterminous with those of the one-hundred-year flood or intermediate regional flood as delineated by the Army Corps of Engineers in the report(s) entitled "Floodplain Information Susquehanna River (Towns of Windsor and Colesville) Broome County, New York." [Added 1-8-75]

FLOODWAY - That portion of the Flood Hazard District adjacent to the channel of a stream which, after permitted encroachments have occurred in flood-fringe areas, is designed to carry the waters of the one-hundred-year flood, without increasing the water surface elevation of that flood more than one-half(1/2) foot at any point.[Added 1-8-75]

HOME OCCUPATION - Any use customarily conducted entirely within a dwelling, which use is clearly incidental and secondary to the use of the dwelling or dwelling purpose and does not change the character thereof (professional occupations such as doctors, lawyers, dentists, teachers, insurance officers, real estate offices and personal service uses).

JUNKYARD - A lot, land or structure or part thereof used primarily for the collecting, storage and sale of wastepaper, rags, scrape metal or discarded material or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition or for the sale of parts thereof.[Amended 5-2-1990 by L.L. No. 1-1990]

LOT - A parcel of land occupied or capable of being occupied by a building or buildings and accessory buildings and/or uses, including such open spaces as are required by this chapter.

LOT AREA - The total horizontal area included within lot lines.

LOT, CORNER - A lot situated at the intersection of two (2) or more streets or highways.

LOT LINE, FRONT - The lot line which abuts upon a street.(Amended 5-3-2000)

LOT WIDTH - The mean horizontal distance measured at right angles to its depth along the front lot line.

MEAN FINISHED GRADE - The average grade level of the ground measured at the front wall of the building.

NONCONFORMING BUILDING - A building or structure or portion thereof, lawfully existing on the effective date of this chapter or subsequent amendment thereto, which does not completely conform to the regulations applicable in the district in which it is located.

ONE-HUNDRED-YEAR FLOOD (intermediate regional flood) - A flood having an average frequency of occurrence in the order of once in on hundred(100) years, although the flood may actually occur in any year. The outer boundaries of the one-hundred-year flood in the Town of Windsor are coterminous with the Flood Hazard District and are defined by the Army Corps of Engineers in the report(s) entitled, "Floodplain Information Susquehanna River (Towns of Windsor and Colesville) Broome County, New York." [Added 1-8-75]

PARKING SPACE, OFF-STREET - An off-street space, area or berth, with an appropriate means of vehicular access to a street, intended for the temporary storage of vehicles.

SELF STORAGE FACILITY – A Public facility for storage of personal, household or business property which is serviced by the owner of the stored property or an agent of the owner. The term “Self Storage Facility” includes all similar uses and terms but shall not be construed to mean warehouse. The self-storage facility must be constructed on a permanent foundation. A self-storage facility is not to be used for the transfer, shipping or receiving of products or goods in conjunction with a business operation. (Added 7-5-01, by L.L. #1-2001)

SIGN - A structure, part thereof, or device attached thereto or painted or represented thereon, or any material or thing, illuminated or otherwise, which displays or includes any numeral, letter, word, model, banner, emblem, device, trademark or other representation used as and announcement, designation, direction or display to advertise or promote any person, firm, group, organization, commodity, service, profession or enterprise when said display is placed out of doors in view of the general public.

A. BUSINESS SIGN - A sign which directs attention to a business, industry, profession, commodity, service or entertainment sold or offered upon the same premises where the sign is located.

B. ADVERTISING SIGN - A sign which directs attention to a business, industry, profession, commodity, service or entertainment not sold or offered upon the same premises where the sign is located.

C. DIRECTIONAL OR INFORMATIONAL SIGN - A sign which is non-illuminated which may be used for the purpose of stating the name or location of the town and its public buildings, hospital, community center, church, school, park or the name or place of meeting of an official or civic organization (e.g., Lions, Kiwanis). No advertising or business matter shall be contained on signs of this type.

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

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

STREET – A publicly owned and maintained road. (Amended 5-3-2000)

TRAILER - Any vehicle or structure, including but not limited to an automobile trailer and trailer coach, mounted or capable of being mounted on wheels for use on highways and streets, and designed for use as a dwelling.

TRAILER PARK - Any site, lot, field or tract of ground upon which two(2) or more trailer coaches are placed, and shall include any building, structure, tent, vehicle or enclosure used or intended to be used as a part of the equipment of such park.

YARD - An open space on the same lot with a building unoccupied and unobstructed from the ground upward except as otherwise provided herein.

YARD, FRONT - A yard extending across the full width of a lot and lying between the front lot line of the lot and the front line of the principal building.

YARD, REAR - A yard extending across the full width of a lot and lying between the rear line of the lot and the nearest line of the principal building.

YARD, SIDE - A yard between a side lot line of a lot and nearest line of the principal building and extending from the front yard to the rear yard.

§ 93-5. Application of regulations.

Accept as herein provided:

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

B. Any parcel of land with an area or a width less than that prescribed for a lot in the district in which such lot is located, which at the time of the adoption of this chapter was under one(1) ownership, and when the owner thereof owns no adjoining land, may be used as a lot for any purpose permitted in the district without obtaining a variance from the Zoning Board of Appeals, provided that all other regulations prescribed for the district by this chapter shall be complied with.

ARTICLE II

Establishment of Districts; Map

§ 93-6. Districts established; Zoning Map.

A. For the purpose of this chapter, the Town of Windsor is hereby divided into the following types of districts:

R-14 Residential District

A Agriculture District

C Commercial District

I Industrial District

FHD Flood Hazard District

B. Said districts are shown, defined and bounded on a map entitled "Town of Windsor, New York, Zoning Map," adopted November 1, 1965, and certified by the Town Clerk, which

map accompanies and, with all explanatory matter thereon, is hereby made a part of this chapter.²

C. The Town Clerk, with the assistance of qualified person(civil engineer, licensed surveyor, etc.), shall make changes on the said map as directed by the Town Board. The original of said map shall be filed in the office of the Town Clerk and shall be available for public inspection.

§ 93-7. Interpretation of District Boundaries.

Where uncertainty exists with respect to the boundary of any district as shown on the Town of Windsor Zoning Map, the following rules shall apply:

A. District boundary lines are either the center lines of streets, highways or railroads; streams, rivers or other bodies of water; or the boundary lines of tracts or lots or such lines extended, unless otherwise indicated.

B. Wherever a district boundary is indicated as approximately paralleling a street or highway center line, the district boundary shall be interpreted as being parallel thereto and at such dimensions as shown on the Zoning Map. The depth of said district shall

²The Zoning Map is on file in the Office of the Town Clerk.

be measured at right angles from the street or highway center line. If no distance is given, such dimensions shall be determined by the use of the scale as set forth on said Zoning Map.

- C. Where uncertainty exists in determining the precise location of any district boundary line, the Zoning Board of Appeals shall interpret the intent and purpose of the Zoning Map.

§ 93-8. Lots in more than one district.

Where a district boundary line divides a lot, the regulations for either portion of the lot may, at the owner's discretion, extend to the entire lot, but not more than twenty-five(25) feet beyond the boundary line of the district.

**ARTICLE III
R-14 Residence District**

§ 93-9. Applicability.

The following regulations shall apply in all R-14 Residence Districts.

§ 93-10. Permitted principal uses.

A. The following are permitted principal uses in the R-14 Residential District:

- (1) One- and two-family dwellings and multiple-family dwellings.
- (2) Boarding and rooming houses providing accommodations for not more than eight(8) roomers.
- (3) Churches and other places of worship, Sunday school buildings, parish houses.
- (4) Public elementary, secondary and nursery and parochial schools.
- (5) Public and private parks and open recreation areas, but not including commercial facilities or amusement parks.
- (6) Funeral homes.
- (7) Tourist homes providing accommodations for not more than eight(8) guests.
- (8) Cemeteries and the buildings incidental thereto.
- (9) Electrical distribution substations and other public utility structures.

(10) Libraries and other public buildings.

(11) Nursing and convalescent homes, but excluding institutions for the insane, epileptic, drug or liquor patients.

B. Trailers shall not be used for dwelling purposes in R-14 Residential Districts.

§ 93-11. Permitted accessory uses.

The following are permitted accessory uses in the R-14 Residence District:

A. Accessory structures or uses, including private garages, garden houses, tool-houses and similar uses for the exclusive use of the resident only.

B. Customary agriculture operations; provided, however, that no storage of manure or other odor or dust-producing substance shall be permitted within one hundred(100) feet of any residence.

C. Customary home occupations, provided that:

(1) The occupation shall be conducted only by members of the immediate family residing in the premises.

(2) Not more than one-half(1/2) of the floor area of one (1) floor of the principal building is to be so used.

(3) No external evidence of such occupation shall be permitted, except one(1) business sign not to exceed sixteen(16) square feet in area.

D. One(1) trailer may be stored on any one(1) lot or plot, but shall in no manner be used as a dwelling unit.

E. No advertising sign shall be erected or maintained in any R-14 Residential District.

§ 93-12. Height regulations.

A. No building shall be erected or reconstructed so as to exceed thirty-five(35) feet in height.

B. Principal nonresidential structures(churches, schools, etc.) may be erected to a height greater than Thirty-five(35) feet, provided that front, side and rear yards shall be increased by two(2) feet for each one (1) foot by which such building exceeds the thirty-five foot height limitation.

§ 93-13. Lot area and width.

The lot area for each one-family dwelling shall be not less than fourteen thousand (14,000) square feet, and lot width not less than ninety(90) feet. The lot area for three-family dwelling units shall not be less than thirty thousand (30,000) square feet and an additional one thousand(1,000) square feet for each family after three (3) units. The minimum lot width for multifamily dwellings shall not be less than one hundred (100) feet.

§ 93-14. Yard Requirements.

A. Yards and other open spaces shall be provided and maintained not less than as follows:

- (1) Front yard: thirty-five (35) feet.
- (2) Rear yard: thirty (30) feet.
- (3) Side yard: ten (10) feet each of two (2) required

B. An accessory building shall not be permitted in a front yard or closer than three (3) feet to any property line.

C. On corner lots, principal and accessory buildings shall provide a side yard of fifteen (15) feet on that side which fronts upon a street.

§ 93-15. Maximum building coverage.

The total building area, including accessory buildings, shall not exceed fifty percent(50%) of the area of the lot.

**ARTICLE IV
“A” Agriculture District**

§ 93-16. Applicability.

The following regulations shall apply in all “A” Agriculture District.

§ 93-17. Permitted principal uses.

The following are permitted principal uses in the A Agriculture Districts:

- A. Agriculture. No parcel of land now held vacant or used exclusively for agriculture shall be restricted as to use for agriculture purposes.
- B. Residences.
- C. Churches and other places of worship, Sunday school buildings.
- D. Public elementary, secondary and parochial and nursery schools.
- E. Public and private parks, playgrounds, except commercial amusement parks.
- F. Cemeteries and the buildings incidental thereto.
- G. Hospitals, sanatoriums and convalescent homes, except penal institutions or institutions for the mentally ill.
- H. Philanthropic and eleemosynary institutions, homes for the aged.
- I. Veterinarian hospital.
- J. Public buildings.
- K. Saw and lumber mills.
- L. Gravel, quarry and stone-cutting operations.
- M. Creameries and feed mills.
- N. Golf courses, driving ranges, miniature golf courses, cross-country and alpine skiing facilities.[**Amended 8-12-94 by L.L. No. 1-1994**]
- O. One (1) trailer may be used as a dwelling on a lot or plot, subject to all regulations applicable for one-family dwellings in A Agriculture Districts.
- P. Trailer (mobile home) parks, subject to the issuance of special permit by the Zoning Board of Appeals as set forth in Article XI, §93-50.
- Q. A business sign, as defined, is permitted for farm purposes, provided that:
 - (1) The sign area shall not exceed a total of one hundred fifty (150) square feet.
 - (2) The illumination of any sign shall be nonflashing, indirect or diffused and shall be arranged so that direct rays of light do not shine or reflect into adjacent residential districts.

- (3) All signs shall be located so as not to be in the line of vision of traffic control signs.
- (4) No signs shall be erected at the intersection of any street or road in such manner as to obstruct free and clear vision; or at any location where by reason of the position, shape or color it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device by making use of the words "stop" or "danger" or any other word, phrase, symbol or character, or red, green or amber illumination or reflection in such manner as to interfere with, mislead or confuse traffic.
- (5) All signs shall be set back from any lot line a minimum of fifteen (15) feet.
- (6) No sign shall be erected or placed on a building to exceed a height of thirty (30) feet above the level of the ground upon which the building or the sign supports rest.

R. Electrical distribution substations and other public utility structures.

§ 93-18. Permitted accessory uses.

A. The following are permitted accessory uses in the A Agriculture District:

- (1) Farm buildings, structures and uses customarily incidental to agricultural uses.
- (2) Accessory structures and uses, including private garages, garden house, greenhouse, tool-house and similar uses customarily incidental to the principal use.
- (3) Customary home occupations, i.e., gift shop, antique shop, provided that there shall be no external evidence of such occupation except one (1) announcement sign not to exceed sixteen (16) square feet in area.

B. No advertising signs shall be erected or maintained in any "A" Agriculture District.

§ 93-19. Lot area and width.

No principal building shall be erected on a lot of an area less than fourteen thousand (14,000) square feet and having a width of less than ninety (90) feet.

§ 93-20. Yard requirements.

A. Yards and other open spaces shall be provided and maintained not less than prescribed below:

- (1) Front yard: thirty-five (35) feet.
- (2) Side yard: ten (10) feet, each of two (2) required.
- (3) Rear yard: thirty (30) feet.

B. Accessory buildings shall not be permitted in front of a principal building or closer than three (3) feet to any property line.

C. Farm buildings and structures incidental to farm residences shall be required to maintain a setback from the right-of-way of county, state and town roads of fifteen (15) feet.

ARTICLE V
C Commercial District

§ 93.21. Applicability. [Amended 4-2-97, LL No. 1-1997]

The following regulations shall apply in all “C” Commercial Districts:

Site plan review is required on all commercial developments. The Planning Board shall recommend, to the Town Board, approval, approval with conditions, or disapproval of any site plans received. Site Plan submittal procedures are set forth in §93-21.1.

§93-21.1 Commercial Site Plan Review. [Amended 4-2-97, LL No. 1- 1997]

A. Site Plans, which must be signed and sealed by a New York State Licensed Professional Engineer, shall be submitted, in such form as shall be approved from time to time by the Town Board to the Code Enforcement Officer. The Code Enforcement Officer shall transmit such site plans to the Planning Board within fifteen(15) days of receipt. The Code Enforcement Officer should indicate to the Planning Board if the plan is in compliance with the existing zoning regulations. The Code Enforcement Officer may make recommendations regarding the proposal.

Four(4) copies of the site plan shall be submitted to the Code Enforcement Officer containing the information required by the Code, as well as the following:

- (1) Location, layout and dimensions of off-street parking and loading facilities; vehicular entry, exit and circulation on the site and neighboring roads;
- (2) Grading and drainage plan for the site;
- (3) Sewage disposal plan approved by the Broome County Department of Health;
- (4) Projected number of seating or employees to determine parking requirements; and

- (5) Any other engineering, landscaping or similar information which the Planning Board may require for the review process.

- B. The Planning Board shall review the application. It may require a personal appearance by the applicant. The Planning Board shall, within forty-five (45) days of receipt of the application, make a non-binding recommendation to the Town Board of either, approval, approval with conditions or disapproval.

- C. The Town Board shall then have forty-five (45) days from receipt of the Planning Board's recommendation to schedule any Public Hearings as are required or permitted, and may approve, approve with conditions or disapprove said application within thirty (30) days after said forty-five (45) day period.

§ 93-21.2 Application for Commercial Site Plan Review. (Added 5-3-00, LL No. 2-2000)

A. Town of Windsor Planning Board, Application for Site Plan Approval.

Application Number
(to be filled in by
Code Enforcement Officer)

This application, with all associated papers, must be filed at least 45 days prior to the date of the meeting at which it will be considered.

Date Filed: PB meeting Public Hearing: (if necessary)

Name of Proposed Development:

Applicant: Owner (if different):
Name Address Name Address
Telephone Telephone

Plans prepared by:
Name New York State Professional Engineers License Number or
Address other licensing Indicia
Telephone

Location of site: (directions from) nearest intersection

Tax Map Number Current Zoning Classification

Total Site Area (Square feet or acres):

County, State and/or Federal permits needed:

(list type and appropriate department)

(attach addendum, If necessary)

Proposed use(s) of site:

Will development be in stages:

Estimated construction: Start date Completion date(s):

Expenses:

I(we), the undersigned, understand that a \$25.00(Twenty-Five dollars) filing charge must accompany this application and that any extraordinary expenses born by the Town for additional professional expenses as well as advertising for the cost of a public hearing shall be paid by the applicant.

Applicant(s) signature(s) Date

B. Review of Commercial Site Plan Application, Code Enforcement Officer.

Application Number

Name of Proposed Development:

Applicant:
Name _____
Address _____
Telephone _____

Owner (if different):
Name _____
Address _____
Telephone _____

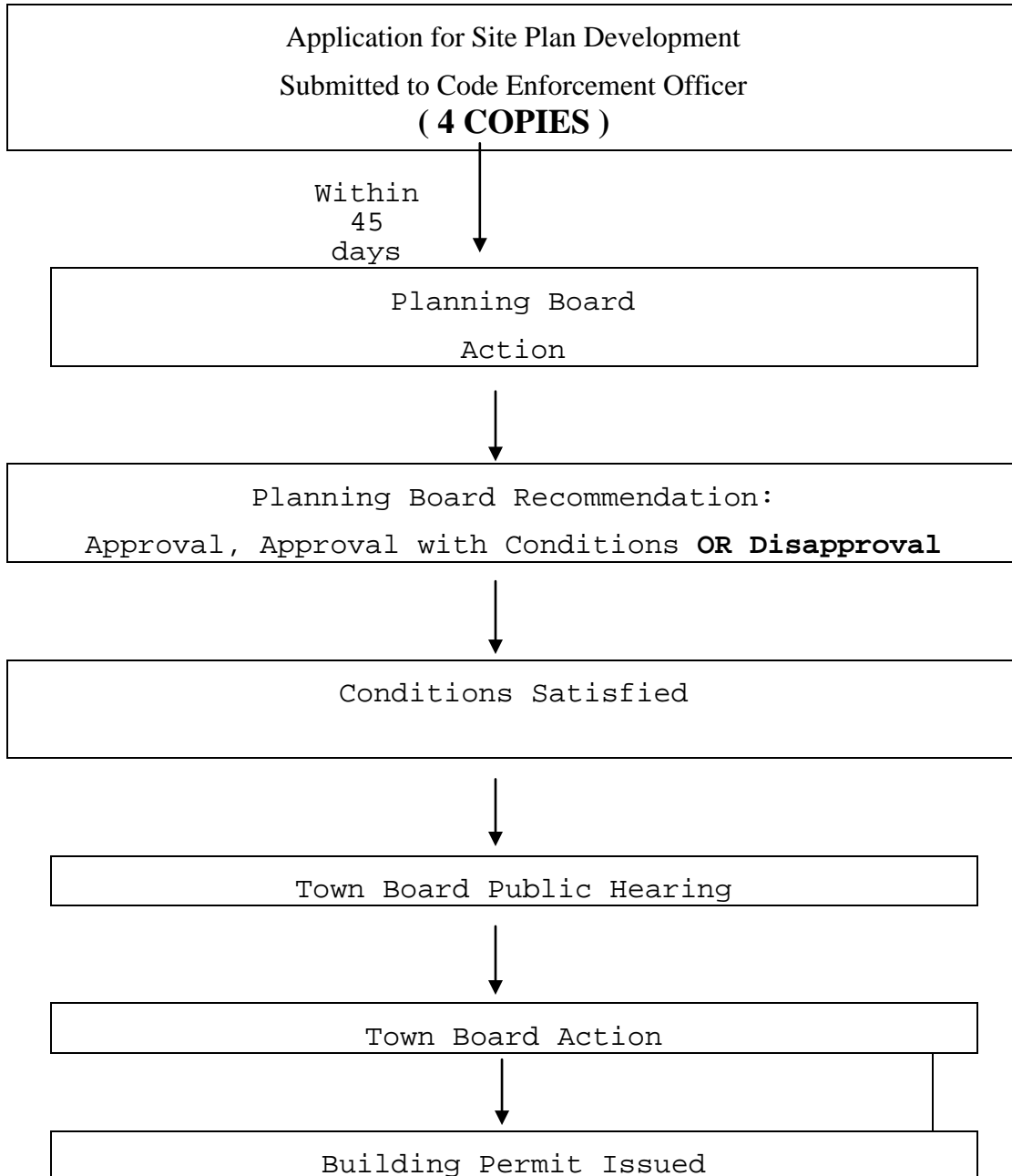
- | | Yes | No |
|--|-------|-------|
| 1. Does this application meet all Zoning regulations? | _____ | _____ |
| 2. Is the property involved in this application in a Flood Zone? | _____ | _____ |
| 3. Have all associated papers been filled with the application? | _____ | _____ |
| 4. Was the site plan signed and sealed by a New York State Licensed Professional Engineer? | _____ | _____ |
| 5. Additional comments and recommendations: _____ | | |

Code Enforcement Officers Signature

Date

Basic Site Plan Development

Review Procedures



§ 93-22. Permitted principal uses.

The following are permitted principal uses in the “C” Commercial District:

- A. Retail uses, including food, drug, hardware, apparel, appliance, furniture and similar retail uses.
- B. Service uses, including, barbershop, beautician, Laundromat, appliance and similar service uses.
- C. Offices: business, professional, governmental, financial, banks.
- D. Motels, hotels and restaurants.
- E. Gasoline service stations, service garages, automobile and equipment sales.
- F. Churches and other places of worship, Sunday school buildings.
- G. Public buildings (post office, town hall, fire station, library).
- H. Lodges and fraternal organizations.
- I. Theaters, bowling alleys and other places of public amusement except amusement parks or uses which cause undue noises, dust, noxious odors.
- J. Electrical distribution substation and other public utility structures.
- K. Business signs, as defined, are permitted, provided that:
 - (1) The sign area shall not exceed a total of one hundred fifty (150) square feet.
 - (2) The illumination of any sign shall be non-flashing indirect or diffused and shall be arranged so that direct rays of light do not shine or reflect into adjacent residential districts.
 - (3) All signs shall be located so as not to be in the line of vision of the traffic control signs.
 - (4) No sign shall be erected at the intersection of any street or road in such a manner as to obstruct free and clear vision; or at any location where by reason of the position, shape or color it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device by making use of the words "stop," "danger" or any other word, phrase, symbol or character, or red, green or amber illumination or reflection in such manner as to interfere with, mislead or confuse traffic.
 - (5) All signs shall be set back from any lot line a minimum of fifteen (15) feet.

(6) No signs shall be erected or placed on a building to exceed a height of thirty (30) feet above the level of the ground upon which the building or the sign supports rest.

L. Other similar uses, if approved by the Zoning Board of Appeals.

M. One, two and multiple family dwellings are permitted principal uses in a “C” Commercial district. (Amended 3-24-98 by L.L. #1-1998)

N. Self Storage Facility. (Amended 7-5-01 By L.L. #1-2001)

§ 93-23. Permitted accessory uses.

A. The following are permitted accessory uses in the “C” Commercial District:

(1) Residential dwellings, provided that such use and dwellings shall conform to the provisions and regulations of Article III, R-14 Residence District. [Amended 6-14-67]

(2) Accessory uses and buildings customarily incidental to a permitted principal use when located on the same lot.

B. No advertising sign shall be erected or maintained in any “C” Commercial District.

§ 93-24. Lot area and width.

No principal building shall be erected on a lot of an area less than eighty thousand (80,000) square feet and having a frontage of not less than two hundred (200) feet in commercial districts not serviced with public sewage. In areas serviced by public sewage, no principal building shall be erected on a lot of an area less than forty thousand (40,000) square feet and having a frontage of not less than one hundred fifty (150) feet. (Amended 12-7-2011, by L.L. #3-2011) (Amended 3-24-98, by L.L. #1-1998)

§ 93-25. Height regulations.

No building shall be erected or reconstructed so as to exceed the following heights:

A. Principal building: forty-five (45) feet.

B. Accessory building: twenty (20) feet.

§ 93-26. Yard requirements.

Yards and other open spaces shall be provided and maintained not less than the following dimensions:

A. Principal building:

(1) Front yard: thirty (30) feet.

(2) Side yard: none required.[Exception: a side yard not less than fifteen (15) feet shall be required on that side of a commercial property which abuts a residential or agricultural district.]

(3) Rear yard: thirty (30) feet.

B. Accessory building:

(1) Front yard: thirty (30) feet.

(2) side or rear yard: ten (10) feet.

§ 93-27. Maximum building coverage.

The total building area, including accessory buildings, shall not exceed fifty percent (50%) of the area of the lot.

§ 93-28. Off-street parking and loading.

An off-street parking and loading area shall be provided for each use as follows:

A. Off-street parking. One (1) off-street parking space at least eight (8) feet in width and twenty (20) feet in length, with adequate vehicular access, egress and circulation, shall be provided for each three hundred (300) square feet of gross floor area in the principal structure or structures of a business, service or other establishment.

B. Off-street loading. One (1) off-street loading space at least twelve (12) feet in width and thirty (30) feet in length shall be provided for each business, service or other establishment.

ARTICLE VI
“T” Industrial District

§ 93-29. Applicability.[Amended 4-2-97, LL No. 1-1997]

The following regulations shall apply in all “T” Industrial Districts:

Site plan review is required on all industrial developments. The Planning Board shall recommend to the Town Board approval, approval with conditions, or disapproval of any plans received. Site plan submittal procedures are set forth in § 93-29.1.

§93-29.1 Industrial Site Plan Review.[Amended 4-2-97, LL No. 1-1997]

- A. Site Plans, which must be signed and sealed by a New York State Licensed Professional Engineer, shall be submitted, in such form as shall be approved from time to time by the Town Board to the Code Enforcement Officer. The Code Enforcement Officer shall transmit such site plans to the Planning Board within fifteen(15) days of receipt. The Code Enforcement Officer should indicate to the Planning Board if the plan is in compliance with the existing zoning regulations. The Code Enforcement Officer may make recommendations regarding the proposal.

Four(4) copies of the site plan shall be submitted to the Code Enforcement Officer containing the information required by the Code, as well as the following:

- (1) Location, layout and dimensions of off-street parking and loading facilities; vehicular entry, exit and circulation on the site and neighboring roads; Grading and drainage plan for the site;
 - (2) Sewage disposal plan approved by the Broome County Department of Health;
 - (3) Projected number of seating or employees to determine parking requirements; and
 - (4) Any other engineering, landscaping or similar information which the Planning Board may require for the review process.
- B. The Planning Board shall review the application. It may require a personal appearance by the applicant. The Planning Board shall, within forty-five(45) days of receipt of the application, make a non-binding recommendation to the Town Board of wither, approval, approval with conditions or disapproval.
- C. The Town Board shall then have forty-five(45) days from receipt of the Planning Board's recommendation to schedule any Public Hearings as are required or permitted, and may approve, approve with conditions or disapprove said application within thirty(30) days after said forty-five (45) day period.

§ 93-29.2 Application for Industrial Site Plan Review. (Added 5-3-00, LL No. 2-2000)

A. Town of Windsor Planning Board, Application for Site Plan Approval.

Application Number
(to be filled in by
Code Enforcement Officer)

This application, with all associated papers, must be filed at least 45 days prior to the date of the meeting at which it will be considered.

Date Filed: PB meeting Public Hearing: (if necessary)

Name of Proposed Development:

Applicant: Owner (if different):
Name Address Name Address
Telephone Telephone

Plans prepared by:

Name Address Telephone
New York State Professional Engineers License Number or
other Licensing Indicia

Location of site: (directions from) nearest intersection

Tax Map Number Current Zoning Classification

Total Site Area (Square feet or acres):

County, State and/or Federal permits needed:

(list type and appropriate department)

(attach addendum, If necessary)

Proposed use(s) of site:

Will development be in stages:

Estimated construction: Start date Completion date(s):

Expenses:

I(we), the undersigned, understand that a \$25.00(Twenty-Five dollars) filing charge must accompany this application and that any extraordinary expenses born by the Town for additional professional expenses as well as advertising for the cost of a public hearing shall be paid by the applicant.

Applicant(s) signature(s) Date

B. Review of Industrial Site Plan Application, Code Enforcement Officer.

Application Number

Name of Proposed Development: _____

Applicant:
Name _____
Address _____

Telephone _____

Owner (if different):
Name _____
Address _____

Telephone _____

- | | Yes | No |
|--|-------|-------|
| 1. Does this application meet all Zoning regulations? | _____ | _____ |
| 2. Is the property involved in this application in a Flood Zone? | _____ | _____ |
| 3. Have all associated papers been filled with the application? | _____ | _____ |
| 4. Was the site plan signed and sealed by a New York State Licensed Professional Engineer? | _____ | _____ |

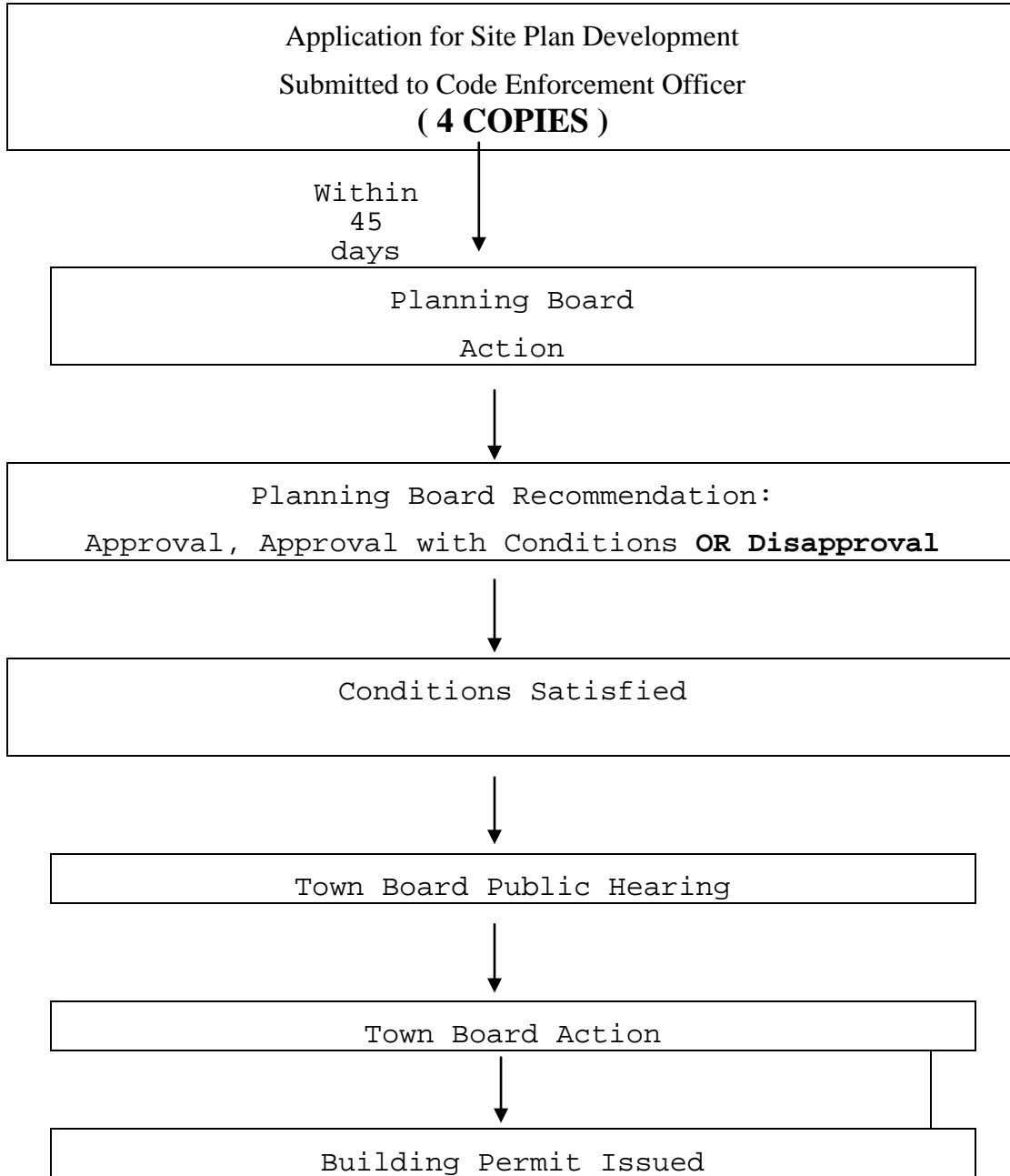
5. Additional comments and recommendations: _____

Code Enforcement Officers Signature

Date

Basic Site Plan Development

Review Procedures



§ 93-30. Permitted principal uses.

A. The following are permitted principal uses in the “T” Industrial District:

- (1) Assembly of machinery, appliances, instruments and similar products.
- (2) Food-processing plants, including creameries, bakeries and bottling works.
- (3) Laundries and dry-cleaning plants.
- (4) Printing, lithographic, typesetting and binding establishments.
- (5) Laboratories and clinics.
- (6) Warehouses, wholesale establishments, feed mills, or lumber and mill supplies.
- (7) Gasoline service stations, repair garages, automobile, truck and trailer sales.
- (8) Any manufacturing, fabricating, processing or maintenance establishments, provided that such use shall not be noxious or injurious to adjoining property be reason of the production or emission of dust, smoke, refuse matter, odor, gas fumes, noise, vibration similar substance or conditions; provided, however, that any uses may be permitted if approved by the Zoning Board of Appeals and subject to the securing of a permit therefor and to such conditions, restrictions and safeguards as may be deemed necessary by said Board for the purpose
- (9) Electrical distribution substations and other public utility structures.

B. The following uses shall be specifically prohibited: the manufacture of heavy chemicals or other corrosives, such as but not limited to acids, ammonia, caustic soda, explosives, soaps and detergents, fertilizers, automobile wrecking yards, scrap iron and junkyards.

C. Business signs, as defined, are permitted, subject to the same specifications listed in Article V, § 93-22K(1) through (6).

§ 93-31. Permitted accessory uses.

A. The following are permitted accessory uses in the I Industrial District:

- (1) Accessory uses and structures customarily incidental to a permitted principal use.

§ 93-31

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(2) Residential dwellings, when incidental to and located above the first floor of any principal use.

B. No advertising sign shall be erected or maintained in any I Industrial District.

§ 93-32. Lot area and width.

No principal building shall be erected on a lot of an area less than ten thousand (10,000) square feet and having a width of less than seventy-five (75) feet.

§ 93-33. Height regulations.

No building shall be erected or reconstructed so as to exceed the following heights:

A. Principal building: forty-five (45) feet.

B. Accessory building: twenty (20) feet.

§ 93-34. Yard requirements.

Yards and other open spaces shall be maintained not less than the following dimensions:

A. Principal building:

(1) Front yard: thirty (30) feet.

(2) Side yard: ten (10) feet. **[Exception: Structures located upon lots which abut any residential district shall provide yards on that side which abut said residence district of not less than twenty-five (25) feet.]**

(3) Rear yard: thirty (30) feet.

B. Accessory buildings:

(1) Front yard: thirty (30) feet.

(2) Side and rear yards: ten (10) feet.

§ 93-35. Maximum building coverage.

All buildings, including accessory buildings shall not cover more than forty percent (40%) of the lot area.

§ 93-36. Off-street parking and loading.

Off-street parking and loading area shall be provided for each use as follows:

- A. Off-street parking. One (1) off-street parking space at least eight (8) feet in width and twenty (20) feet in length with adequate vehicular access and circulation shall be provided for each two hundred (200) square feet of gross floor area of industrial and commercial structures.
- B. Off-street loading. One (1) off-street loading space at least twelve (12) feet in width and thirty (30) feet in length shall be provided for each industrial and commercial establishment.

**ARTICLE VII
Supplementary Regulations**

§ 93-37. Scope.

The provisions of this chapter shall be subject to such exceptions, additions or modifications as herein provided.

§ 93-38. Height exceptions.

The height limitations of this chapter shall not apply to chimneys, flagpoles, water towers or ventilators nor to towers or spires of churches or other public buildings, provided that every portion of the structure is at least as many feet distant from the bordering properties as that portion of the structure is in height.

§ 93-39. Waste disposal.

The dumping of refuse, waste material and similar substances as a commercial operation shall not be permitted in any district within the Town of Windsor except as hereinafter permitted by the Town Board.

§ 93-39.1. Junkyards.[Added 9-5-1990 by L.L. No. 2-1990]

- A. All junkyards, as defined by this Code and/or by the laws of the State of New York, must be registered in the Town of Windsor each year on or before the first day of April of each year, beginning in 1991.
- B. Such registration must be in the application form and under such conditions as the Town Board may from time to time adjust. Such application must be accompanied by a processing fee of fifty dollars (\$50.00) or such other sum as the Town Board may from time to time adopt. All applications must, in addition to the above, demonstrate compliance in the existence and operation of said junkyard with all federal, state and local laws.

ARTICLE VIII
Non-Conforming Uses

§ 93-40. Continuation of nonconforming uses.

The lawful use of any building or the use of land existing at the time of the adoption of this chapter may be continued, although such use or building may not conform to the provisions of this chapter, except as hereinafter provided.

§ 93-41. Changes in use.

A nonconforming use may not be changed to a more intensive nonconforming use, nor shall a conforming use be changed to a nonconforming use. Any nonconforming use when changed to a conforming use shall not thereafter be changed back to a nonconforming use unless the original nonconforming use was destroyed by fire, wind, flood or other act of God. A trailer in a nonconforming use may be replaced by a trailer of equal or greater value than the trailer being replaced, as determined from the assessment rolls of the Town of Windsor, New York

§ 93-42. Cessation of use.

Whenever a nonconforming use has ceased for a period of one (1) year, any future use shall be in conformity with the provisions of this chapter.

ARTICLE IX
Administration

§ 93-43. Enforcement official.

This chapter shall be enforced by the Administrative Officer or other designated officer who shall be appointed by the Town Board. No building permit shall be issued by him except in compliance with the provisions of this chapter.

§ 93-44. Building permits.[Amended 6-4-03, LL #1-2003]

- A. No building shall be erected, altered or moved in any district until a building permit has been issued by the administrative officer, except that barns, sheds for farming purposes, silos, animal shelters or other agricultural accessory buildings whose sole purpose is for the active agricultural use of the premises only , and specifically not including human dwellings, or residential garages or other residential use improvements, may be constructed without a building permit.

- B. All applications for building permits shall be on forms furnished by the town, which shall require the following information:
 - 1. The nature of the permit sought and the intended use of the building or proposed building.
 - 2. A layout or plot plan showing the exact size and location on the lot of the building and/or accessory buildings, with dimensions given.
 - 3. The number and location of off-street parking and/or loading spaces and access thereto as set forth in this chapter for the use intended.
 - 4. Such additional information as the Administrative Officer, Zoning Board of Appeals, Planning Board or Town Board shall require.

- C. No building permit shall be issued for any building where said construction, alteration or use thereof would be in violation of any provisions of this chapter, except upon a written order of the Zoning Board of Appeals.

- D. In A Agriculture Districts, accessory buildings (barns, sheds or shelters) may be constructed without obtaining a building permit.

- E. A building permit shall be void at the expiration of ninety (90) days after the date of issuance unless footing forms and foundation stakes are placed ready for inspection within such ninety-day period; or, if none are to be placed in connection with the proposed building or addition, construction is actually commenced within such ninety-day period.

- F. **[Fees adjusted 06-04-03 by LL #1-2003]** Fees for building permits are to be as follows:
 - (1) Garages.
 - (a) Single door: **Ten dollars (\$10.00)**
 - (b) Double door: **Twenty dollars (\$20.00)**
 - (2) Residence.
 - (a) Area up to Nine hundred Ninety-nine (999) sq. ft.: **Thirty dollars (\$30.00)**
 - (b) Area of one thousand (1,000) to One thousand Nine hundred Ninety-nine (1,999) sq. ft.: **Fifty dollars (\$50.00)**
 - (c) Area of Two thousand (2,000) sq. ft. and larger: **One hundred dollars (\$100.00)**
 - (3) Mobile homes.
 - (a) All mobile homes: **Twenty-five dollars (\$25.00)**
 - (4) Commercial buildings :
 - (a) All commercial buildings: **Eight cents (\$0.08) per sq. ft.**

G. [Fees established 2-7-90 by Board Resolution] Fees for issuing a Certificate of Occupancy. Buildings costing up to:

- (a) Nine thousand Nine hundred Ninety-nine dollars (\$9,999.00):
Five dollars (\$5.00)
- (b) Ten thousand dollars (\$10,000.00) to Nineteen thousand Nine hundred Ninety-nine dollars (\$19,999.00):
Ten dollars (\$10.00)
- (c) Twenty thousand dollars (\$20,000.00) to Fifty thousand dollars (\$50,000.00):
Twenty dollars (\$20.00)
- (d) For each Fifty thousand dollars (\$50,000.00) thereafter an additional
Ten dollars (\$10.00) will be added.

§ 93-45. Issuance of Certificate of Occupancy/Certificate of Compliance. [Amended 6-4-03, LL #1-2003]

- A.** A "Certificate of Occupancy" shall be issued by the administrative officer upon written request after certifying that a residential premises does comply with New York State Building Codes, Health Laws, ordinances and with the provisions of the Zoning Ordinances of the Town of Windsor, as amended, and with all the regulations thereunder.
- B.** A "Certificate of Compliance" shall be issued by the administrative officer upon written request after certifying that a commercial structure does comply with New York State Building Codes, Health Laws, ordinances and with the provisions of the Zoning Ordinances of the Town of Windsor, as amended, and with all the regulations thereunder.
- C.** The issuance or refusal to issue such a certificate shall not subject the administrative officer, or the Town of Windsor, New York to any liability for money damages from any applicant or other person or entity.

**ARTICLE X
Zoning Board of Appeals**

§ 93-46. Creation; membership; organization.

The Town Board shall appoint a Zoning Board of Appeals pursuant to § 267 of the Town Law. Said Board shall consist of five (5) members, to serve for overlapping five-year terms. The Chairman of the Board shall be one (1) of the five(5) members and shall be designated annually as such by the Town Board. Vacancies shall be filled-in for such unexpired terms only. The Board of Appeals shall elect a Vice Chairman from it membership, appoint a Secretary and establish rules on the conduct of its officers.

§ 93-47. Powers and duties.

The Board of Appeals shall exercise all the powers and duties in the manner now and hereafter prescribed by law and by this chapter, which are more particularly specified as follows:

A. Interpretation of chapter. Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.

B. Granting of variance.

- (1) To vary or adapt the strict application of any of the requirements of this chapter, whereby strict application would deprive the owner of the reasonable use of the land or building involved, but in no other case.
- (2) No variance on the strict application of any provision of this chapter shall be granted by the Board of Appeals unless it finds:
 - (a) That there are special circumstances or conditions, fully described in the findings, applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood, and that said 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.
 - (b) That, for reasons fully set forth in the findings, the granting of the variance is necessary for the reasonable use of the land or buildings and that the variance as granted by the Board is the minimum that will accomplish this purpose.
 - (c) That the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

C. Issuance of special use permits.

- (1) To issue special permits for any use after public notice and hearing provided that such special permit use complies with the general standards and rules set forth as follows:
 - (a) Such special use shall comply with all applicable regulations of this chapter for the district within which it is to be located.
 - (b) Such special use shall comply with the standards as set forth for that special use.
 - (c) Such special use shall comply with any conditions deemed necessary by the Zoning Board of Appeals(e.g., access roads fences, landscaping) in order to protect the value of adjacent properties and promote the orderly development of the surrounding area.

- (2) The Board shall deny application for a special use permit when in its judgment said special use is not in accordance with the standards set forth in this chapter or when said use would prove detrimental to adjacent properties.

§ 93-48. Procedures; form of decisions.

- A. The Zoning Board of Appeals shall act in strict accordance with the procedure specified by law and by this chapter. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board. Every appeal or application shall refer to the specific provision of the ordinance involved and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance shall be granted, as the case may be.
- B. Every decision of the Zoning Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case. Each such resolution, together with all documents pertaining thereto, shall be filed in the office of the Town Clerk, by case number under one (1) of the following headings: Interpretations, Special Permit or Variance. The Zoning Board of Appeals shall notify the Town Board, administrative officers and the Town Planning Board of each special permit and each variance granted under the provisions of this chapter.

**ARTICLE XI
Special Use Permits**

§ 93-49. Prerequisites for issuance.

Uses permitted in districts subject to the issuance of a special permit by the Zoning Board of Appeals shall be permitted only when in conformity with:

- A. The provisions prescribed herewith for each special permit use.
- B. All other applicable provisions for the district for which said use is permitted, unless said provisions are waived by the Zoning Board of Appeals. (See Article X, § 93-47C, Issuance of special use permits.)

§ 93-50. Trailer parks.

Trailer (mobile home) parks may be permitted in any A Agriculture District, provided that:

- A. The trailer park location shall be such as to offer reasonable protection to adjacent property against detrimental effects, taking into consideration the physical relationship surrounding properties and access to the site. The trailer park lot is not less than five acres in area.

B. Yards.

(1) The trailer park shall be so designed that the following minimum yards shall be maintained:

(a) Front yard: thirty-five (35) feet.

(b) Side yard: twenty (20) feet.

(c) Rear yard: twenty (20) feet.

(2) No structure shall be constructed in any required yard.

C. Individual trailer spaces shall be maintained not less than two thousand five hundred (2,500) square feet in area and forty (40) feet in width.

D. All trailer spaces shall abut on a driveway of not less than twenty (20) feet in width, which shall have unobstructed access to a public street or highway.

E. The trailer park shall provide all sanitation facilities, water supply and fire protection in accordance with all applicable regulations of the Broome County Health Department and/or the town of Windsor.

ARTICLE XII
FHD Flood Hazard District
[Added 1-8-75]

§ 93-51. Purpose and intent.

The purpose and intent of the Flood District is to minimize the potential loss of life and property during periods of flooding by regulating the alteration and/or the development of those areas within the Flood Hazard District delineated on the Town of Windsor Zoning Map. In promoting the general purpose and intent of these regulations, the specific intent of this Article is to:

A. Control floodplain uses such as clean fill (including rubble), storage of materials, structures and any other works which acting along or in combination with other existing or future uses will cause damaging flood heights and velocities by obstructing flows and reducing floodwater storage.

- B. Protect human life and health.
- C. Minimize public and private property damages.
- D. Minimize surface and groundwater pollution which may affect human, animal or plant life.

§ 93-52. Permitted uses.

- A. The following uses having a low flood damage potential and nonobstructing flood flows may be permitted within the Flood Hazard District to the extent that the uses are not prohibited by other ordinances and provided that they do not require:
 - (1) Structures, except that an addition not exceeding fifty percent (50%) of the or industrial structure, provided that the additions conform with all ordinance provisions.
 - (2) Fill.
 - (3) Storage of material or equipment except for agricultural purposes, the flood damage potential of which is proven significantly low and having non-obstructing flood flow qualities.
- B. No use shall adversely affect the capacity of the channels or floodways of any tributary to the main stream, drainage ditch or any other drainage facility or system.
- C. Uses permitted are:
 - (1) Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, truck farming, forestry and storage.
 - (2) Private and public recreational uses such as golf courses, tennis courts, golf driving ranges, archery ranges, picnic grounds swimming areas, parks, wildlife or nature preserves, game farms, hunting and fishing areas, hiking and horseback riding trails.

- (3) Uses such as lawns, gardens and play areas which are accessory to residential uses.

§ 93-53. Special permit uses.

All uses other than those in § 93-52, Permitted uses, are permitted only after issuance of a special permit by the Zoning Board of Appeals as provided in Article X of this chapter and after the local Planning Board has reviewed and commented on said application. The Flood Hazard District encompasses both floodway and flood-fringe areas. Special permit uses allowed shall be determined by the nature and location of the applicant's proposed use. Therefore:

- A. The applicant shall submit a development plan as specified in § 93-56.
- B. The applicant shall determine whether the proposed special permit use is located within a flood-fringe or floodway area. Said determination of location of the proposed special permit use shall be supported by engineering data prepared and certified by a licensed engineer certified by the State of New York.
- C. If it is determined that the proposed use is located within the flood fringe, the provisions of § 93-54, Flood-fringe provisions, of this chapter shall apply.
- D. If it is determined that the proposed use is located within the floodway, the provisions of § 93-55, Floodway provisions, of this chapter shall apply.
- E. All uses shall be subject to specifications and standards contained within this chapter.

§ 93-54. Flood-fringe provisions.

All uses within the flood fringe other than those specified in § 93-52, Permitted uses, are allowed only as special permit uses in compliance with the following standards:

- A. The elevation of the lowest floor (including basements) of all new residential construction or substantial improvements to existing residential structures within the flood-fringe area shall be equal to or higher than the elevation of the high-water level of the one-hundred-year flood or intermediate regional flood, hereafter referred to as the one-hundred-year flood.
- B. The elevation of the lowest floor (including basements) of all new nonresidential structures or substantial improvements to existing nonresidential structures within the flood-fringe area shall be equal to or higher than the elevation of the high-water level of the one-hundred-year flood or, together with attendant utility and sanitary facilities to be flood-proofed up to the level of the one-hundred-year flood as described under the flood-proofing measures listed below.

- C. All uses located below the one-hundred-year flood shall be flood-proofed in the manner outlined under the flood-proofing measures listed below.
- D. Fill deposited for the purpose of elevating the first floor or basement floor above the high-water level of the one-hundred-year flood shall be at a point no higher than one-half (1/2) foot below said level and shall extend at such elevation at least fifteen (15) feet beyond the limits of any structure or building erected thereon. Such fill shall be protected against erosion by rip-rap, vegetation, bulk-heading or other forms of cover.
- E. Any storage facility for chemicals, explosives or flammable liquids shall be located at an elevation equal to or higher than the elevation of the high-water level of the one-hundred-year flood.
- F. Flood-proofing measures such as the following shall be designed to protect, up to the level of the one-hundred-year flood, all uses allowed together with attendants utility and sanitary facilities.
- (1) Anchorage to resist flotation and lateral movement.
 - (2) Installation of watertight doors, bulkheads and shutters, or similar methods of construction.
 - (3) Use of paints, membranes or mortars to reduce seepage of water through walls.
 - (4) Construction of water supply, sanitary drains, storm drains and waste treatment systems so as to prevent the entrance of floodwaters and prohibit the backup of sewage and storm-waters into structures.
 - (5) Structures shall be constructed to resist rupture or collapse caused by water pressure or floating debris.
 - (6) All new fill shall be protected against erosion by rip-rap, vegetation, bulk-heading or other forms of cover.

§ 93-55. Floodway provisions.

All uses within the floodway other than those specified in 3-52, Permitted uses, are allowed only as special permit uses in compliance with the following standards:

- A. No residential structure shall be allowed.
- B. No structure, fill, deposit, obstruction, storage of materials or equipment, or other use may be allowed which, acting alone or in combination with existing or future uses, affects the capacity of the floodway or causes any increase in flood heights.
- C. Any permitted use located below the high-water level of the one-hundred-year flood shall be flood-proofed up to the level of the one-hundred-year flood in the manner outlined in § 93-54, Flood-fringe provisions, Subsection F.

§ 93-56. Development plan.

The applicant shall be required to furnish such information as is deemed necessary by the Zoning Board of Appeals in determining the suitability of the particular site for the proposed use, including:

- A. Plans in triplicate drawn to scale showing the nature, location, dimensions and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the channel, floodway and the flood protection elevation.
- B. Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
- C. A typical valley cross section showing the channel of the stream(s), elevation of and areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development and high-water information.

§ 93-57. Delineation of floodway.

Until that point in time when the floodway is officially delineated on the Town of Windsor Zoning Map, the location of the floodway shall be determined by the following method:

- A. The floodway shall be designated for passage of the water of the one-hundred-year flood.
- B. The Selection of the floodway shall be based on the principle that the area chosen or the floodway must shall be designed to carry the waters of the one-hundred-year flood, without increasing the water surface elevation of that flood more than one-half (1/2) foot at any point.
- C. A licensed engineer certified by the State of New York define the location of the floodway boundary for a given area by analyzing a typical cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel and high-water information based on reports prepared by the Army Corps of Engineers. Said licensed engineer shall assume that if filling is to take place, it will occur in equal degrees on both sides of the floodway, in the flood-fringe area.
- D. As an alternative to the filling method outlined above in Subsection C and D, the floodway -- flood-fringe boundary may be delineated or modified by removing soils from one location and adding to another. Applicants utilizing this method may be required to submit additional information as is deemed necessary by the Zoning Board of Appeals in determining the suitability of the particular site for the proposed use. Additional regulations may also be required to ensure the proper maintenance of any modifications to existing topographical conditions.

ARTICLE XIII**Amendments; Validity; Interpretation;
Penalties; When Effective****§ 93-58. Amendments.**

- A. The Town Board may from time to time, on its own motion or on petition, amend, supplement, change or repeal the regulations and provisions of this chapter. No such regulation or provision shall become effective until after a public hearing is held.

- B. The Town Board shall fix the time and place of public hearings on such amendment and cause notice to be given by publishing the time and place of such hearing in a newspaper of general circulation in such town, at least ten (10) days prior to the date of such public hearing.
- C. Every such proposed amendment or change shall be referred to the Town Planning Board for report thereon prior to any action thereon by the Town Board. If the Town Planning Board recommends against the enactment of any proposed amendment, it shall become effective only by a favorable vote of four(4) members of the Town Board.

§ 93-59. Severability.

The invalidity of any Article or section of this chapter shall not invalidate any other Article or section thereof.

§ 93-60. Complaints of violation.

- A. Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filled with the administrative officer, who shall properly record such complaint and immediately Investigate and report thereon.
- B. The administrative officer, upon completion of his investigation, shall file a report with the Town Board.

§ 93-61. Penalties for offenses.

Any violation of this chapter is an offense and is subject to the provisions of the Town Law § 268.

§ 93-62. Interpretation of chapter.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare. It is not intended by this chapter to interfere with, abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises, upon heights of buildings or requires larger open spaces than are required by other ordinances, rules, regulations or permits, or by easements, covenants or agreements, the provisions of this chapter shall govern.

§ 93-63. When effective.

This Chapter shall take effect ten (10) days after publication and posting pursuant to § 264 of the Town Law.

Article XIV**Planned Unit Development (PUD)
[Added 1-7-87 by L.L. No. 1-1987³]****§ 93-64. Purpose.**

- A. The purpose of the planned unit development is to provide for the rezoning of land to mixed development in conformance with the provisions and standards which ensure compatibility among all the land uses, foster innovation in site planning and development and to encourage sound design practice.
- B. Provisions are included for planned unit development (PUD) to permit establishment of areas in which mixed uses may be brought together in a compatible and unified plan of development which shall be in the interest of the general welfare of the public. In planned unit development(s), land may be used and structures may be constructed and used for any lawful purpose in accordance with the provisions set forth herein. A planned unit development may be a development of diversified land uses integrated into a carefully considered plan. Where standards may be in conflict or unnecessary due to the integrated nature of the plan, the Town Board may approve a PUD that does not meet all the required standards, such as zero lot line developments, cluster housing, townhouses or such modification is provided as part of the application.

§ 93-65. Procedures for zoning change.

The procedure for obtaining a change in zone for undertaking development within a planned unit development (PUD) shall be as follows:

- A. The applicant (or agent thereof) shall submit six (6) copies labeled "preliminary development plan" to the Town Board, as described in § 93-66, and an application for change of zone. The Town Board shall refer the application and preliminary development plan to the Town Planning Board ten (10) days prior to the Planning Board's next scheduled meeting. Such referral shall be prior to the date of the public hearing required by law on any proposed amendment to the Zoning Ordinance and Map by the Town Board. In addition, the

³The PUD guide, which was included as a part of this local law, is on file in the Town Clerk's office.

preliminary development plan shall be reviewed by the Broome County Planning Department, who shall report its recommendations, in writing, to the Town Board within thirty (30) days.

- B. The Town of Windsor Planning Board shall discuss the application and shall review the preliminary development plan with the applicant (agent). The Planning Board shall prepare recommendations with regard to the preliminary development plan and the proposed change of zone.
- C. Within forty-five (45) days of receipt of the application and the preliminary development plan at its regular meeting, the Planning Board shall transmit, in writing, to the Town Board its recommendations for approval, approval with conditions or modification, or disapproval, in accordance with its findings as described in § 93-68. The Planning Board shall include the reasons for such recommendations to the applicant. Failure of the Planning Board to act within forty-five (45) days of receipt of the application shall permit the Town Board to act without the Planning Board's recommendations.
- D. Within forty-five (45) days of receipt of the Planning Board's recommendations, public notice shall be given and a public hearing held by the Town Board on the proposed change of the zone, subject to the specifications of the preliminary development plan.
- E. Within forty-five (45) days of the public hearing, the Zoning Ordinance may be amended so as to define the boundaries of the planned unit development (PUD), but such action shall have the effect of only granting permission for development of the approved preliminary plan proposal in accordance with the Zoning Ordinance within the area so designated.
 - (1) If the change of zone and preliminary development plan are approved by the Town Board, an appropriate notation to that effect will be made on the face of six (6) copies of the preliminary development plan and the Board's resolution of approval shall be attached thereto. One (1) copy will be retained by the Town Clerk, one (1) copy given to the Planning Board, one (1) copy will be given Code Enforcement Officer one (1) copy will be given to the Town Engineer, one (2) copy will be given to the Broome County Planning Department and one (1) copy will be returned to the applicant.
 - (3) In the event that the Town Board grants the change of zone subject to modification in the preliminary development plan, the resolution granting the change of zone shall specify the required modification and shall specify the time period for the completion of the development plan so specified in § 93-67.

- (4) In the event that the Town Board disapproves the application and preliminary development plan, it shall notify the applicant, in writing, of the disapproval and of the reasons for such decision.
 - (5) If the Final Development Plan is not approved or building permits not issued, for any reason, than the zone change shall not become effective and shall be a nullity. The change of zone for Planned Unit Development shall be accompanied by a fee for One hundred Fifty Dollars (\$150.00) or such fee as the Town Board may from time to time direct. This fee shall be in addition to any fee which may be required by the Town Board for approval of the Final Development Plan as set forth in Section §93-67 of this chapter.
 - (6) In the event the Town Board disapproves the application and preliminary development plan, it shall notify the applicant in writing, of the disapproval and of the reasons for such decision.
- F. Upon approval of the application on change of zone and the preliminary development plan (with or without required modification) the applicant shall submit for Planning Board review six (6) copies of a final development plan as described in the final development plan section, § 93-67.
 - G. When the Town Planning Board approves the final development plan as submitted, an appropriate notation to that effect will be made on the face of six (6) copies of the final development plan. One (1) copy will be retained by the Town Clerk, one (1) copy by he Planning Board, one (1) copy will be given to the Code Enforcement Officer, one copy will be given to the Town Engineer, one (1) copy to the Broome County Planning Department and one (1) copy returned to the applicant.
 - H. Prior to the issuance of a building permit, the Town Board shall approve as to the form and sufficiency of any performance bond obtained by the applicant and as to the acceptability of an offer of cession, deeds or restrictive covenants. In the event that the applicant desires to change the use of the PUD from the original proposed use, a re-submittal of the final development plan shall be required.
 - I. It is the intention of this Chapter that the Planned Unit Development be examined as fully as practical before adoption, and completed promptly with due regard to approved specifications after acceptance of the final plan with minimum expense and risk to the Town of Windsor. The Town Board may in its discretion reasonably estimate it's costs for evaluative professional services and extraordinary expenses including but not limited to engineering and legal fees, and testing fees, and assess that as an additional fee to be paid shall be nonrefundable, and shall not infer any responsibility to the Town of Windsor to approve such plan, or assist in its preparation.

§ 93-66. Preliminary development plan.

The applicant shall submit an application for change of zone with a preliminary development plan at a scale of one (1) inch equals fifty (50) feet, which shall include the following:

- A. Site plan. For residential family and all other developments, a master site plan indicating individual lot layout, ten-foot contours, open spaces, signs, land use areas, streets, utility easements, rights-of-way and adjacent land use.
- B. The location and dimensions of driveways and driveway intersections with street and highways, proposed traffic circulation, parking and loading areas, pedestrian walks, lighting, landscaping and necessary screening. No entrances or exits shall be permitted from a planned unit development (PUD), except as approved by the Planning Board.
- C. The proposed construction sequence of buildings, parking spaces and landscaped areas.
- D. The proposed public utilities plan, including water supply, sewage and storm-water drainage, with a letter of review from Broome County Health Department and Soil Conservation Service.

§ 93-67. Final development plan.

A. For site plan review in a planned unit development, the applicant shall submit a final development plan at a scale of one (1) inch equals (50) feet for review to the Town Planning Board prior to the issuance of a building permit. Plans and specifications shall bear the signature of the person responsible for the design and drawings and where required by § 7302, as amended, of Article 147 of the Education Law of the State of New York, the seal of a licensed architect or licensed professional engineer. The final development plan shall include:

- (1) Site plans showing the location and dimensions of proposed buildings, signs, open spaces and land use areas.
- (2) The location and dimensions of driveways and their intersections with street, and highways, traffic circulation, required parking, pedestrian walks and lighting.

- (3) A landscaping plan, including site grading and type of landscaping plantings and structures and necessary screening.
 - (4) Final drawings of buildings to be constructed in the current phase, including floor plans, exterior elevations and sections.
 - (5) Final engineering plans, including street improvements, water supply, waste disposal and drainage system (approved by the County Health Department) and other public utilities. All improvements shall comply where applicable with construction standards outlined in the Town of Windsor Subdivision Regulations.
 - (6) Letters, in appropriate cases, directed to the Chairperson of the Planning Board, signed by a responsible official of the agency, utility company, government authority or special district having jurisdiction in the area of public sewer, public water, telephone, electric or gas improvements, a responsible and qualified official of the Fire Department and School Board transmitting their findings concerning the plan.
 - (7) Engineering feasibility studies for the solution of an anticipated problem which might arise due to the proposed development, as required by the Planning Board.
 - (8) The need for a performance bond covering this application and any other item as may be determined by and at the option of the Town Board. Such performance bond may set dates for partial and /or full project completion and assess penalties for failure to meet those deadlines or for such other conditions as the Town Board may require.
 - (9) Offers of cession and proposed restrictive covenants.
 - (10) Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscape areas, as applicable.
 - (11) Complete documentation of means for the continued maintenance of common open space and buildings and water supply and sewerage facilities.
 - (12) Any environmental quality reviews as may be required by New York State, Broome County and the Town of Windsor.
- B. Building permits. Building permits shall be issued by the Code Enforcement Officer only in accordance with an approved site plan accurately representing the manner in which the project shall be constructed and after receipt of a recommendation

from the Planning Board. The Planning Board shall transmit the application with its written findings to the Town Board within sixty (60) days. A failure to act within sixty (60) days to the receipt of the application will permit the Town Board to authorize the Code Enforcement Officer to act without the recommendation of the Planning Board. Building permits are not transferable except with a full substitution and assumption in writing approved by the bonding company of any performance bond and unless approved in advance in writing by the Town Board.

- C. Changes. An applicant wishing to make substantial changes in a duly reviewed site plan shall submit a revised final development plan as required by Subsection A of this section.
- D. Final development plans for PUD. The final development for a planned unit development site plan shall be in general conformance with the approved preliminary development plan. Such approval for each phase shall be secured by the applicant for each phase of development. Such approval for each phase shall be valid for two (2) years, or such other time period as may be specifically approved by the Town Board in the application, at which time, unless the proposed development has been completed or in process, the final development plan approval shall terminate and no additional building permits shall be issued. The Town Board may in its sole discretion on written application for good cause shown extend the completion time beyond two(2) years. This totally discretionary power shall not alter the terms of any date of completion requirement in any performance bond or otherwise set forth in the final development plan unless expressly agreed to by the Town Board in writing as to such requirement. This power to approve is solely discretionary with the Town Board and such written application may be denied without comment by the Town Board.

§ 93-68. Findings required for preliminary development plan approval.

The Planning Board, after determining that the requirements of the Zoning Ordinance dealing with planned unit development have been met, shall recommend the approval, approval with modifications or disapproval of the preliminary development plan to the Town Board. The Planning Board shall enter its reasons for such actions in its records and transmit its findings by resolution to the Town Board. The Planning Board may recommend the establishment of a planned unit development, provided that it finds that the facts submitted with the preliminary development plan establish that:

- A. The uses proposed will not be detrimental to the natural characteristics of the site or to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under any other district.
- B. Land surrounding the proposed development can be developed in coordination with the

proposed development and be compatible in use.

- C. Land uses surrounding the proposed development will be adequately buffered from the proposed use where necessary by appropriate screening devices such as a wall, fence or hedge. Where existing features of the property can serve this function, the design of the proposed development shall be such that these features are preserved for such purpose.
- D. The proposed change to a planned unit development on the proposed site is in conformance with the general interest of the 1986 Comprehensive Plan of the Town of Windsor as adopted by the Town Board.
- E. Existing and proposed streets are suitable and adequate to carry anticipated traffic within the proposed development and in the vicinity of the proposed development.
- F. Existing and proposed utility services are adequate for the proposed development.
- G. Each phase of the proposed development, as it is proposed to be completed, contains required parking spaces, landscape and utility areas necessary for creating and sustaining a desirable and stable environment.
- H. There shall be no further development within the boundaries of the parcel.
- I. Other pertinent criteria as may be cited by the Planning Board are met.

§ 93-69. Minimum acreage requirement.

The minimum acreage requirement in a Planned Unit Development shall be five (5) acres.

§ 93-70. Construction of this Article.

This Article regarding Planned Unit Development shall be construed in such a way as to give maximum flexibility and discretion to the Town Board. Nothing herein stated shall be construed in a manner so as to create an obligation not specifically and unequivocally set forth herein.

Article XV-1
Communications Tower Construction Moratorium
[L.L. 1998-2, Enacted 5-6-98]

§ 93-71 Definition

As used in this chapter, communications towers, or words, or phrases shall be as defined in the Telecommunications Act of 1996.

§ 93-72 Purpose

By the enactment of the Telecommunications Act of 1996, there is anticipated substantial growth in the erection of telecommunications towers and there has been discussion concerning the construction of such towers within the Town of Windsor. Realizing that there are significant shortcomings with the current Town of Windsor ordinance the Town Board will revise or replace its current ordinance to more effectively protect the health, safety and welfare of the community and to remove or change certain sections pursuant to recent case law to assure the orderly development of wireless technology in the community, including but not limited to the development of procedures governing the filing of an application, for reviewing and analyzing an application and for granting a permit to construct and use telecommunications towers or other tall structures for the purpose of providing wireless communications services.

§ 93-73 Duration of the Moratorium

A reasonable time for the Town Board to complete their aforementioned review and for the Town Board to enact any required legislation, resulting therefrom is six (6) months from the date of this Local Law enacting said moratorium.

§ 93-74 Applicability

The Town has no pending applications for a telecommunications tower. Therefore this moratorium is not meant to be prohibitive or exclusionary in nature. During the moratorium, applications for a building permit, special use permit or site plan approval, or use variance or other necessary Town approval for a monopole, lattice tower or other telecommunications antennae installation, including cellular antennae installations, shall be accepted but not acted upon by the Town. In accepting an application during the period of this moratorium, it must be accompanied by a six thousand dollar (\$6,000.00) consulting fee to assist in evaluating the application. The Town shall act upon said permit applications within a reasonable time after adoption of the anticipated new local law or after the expiration of this moratorium. All applications shall be subject to the law in effect when acted upon, the date of submittal of said application notwithstanding.

§ 93-75 Effective Date.

This local law shall take effect immediately upon filing in the office of the Secretary of State.

ARTICLE XV-2**Telecommunications Tower Siting and Special Use Permit Law
[L.L. 1998-3, Enacted September 2, 1998]****§ 93-76 Purpose and Legislative Intent.**

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

§ 93-77 Title.

This Law may be known and cited as the Telecommunications Tower Siting and Special Use Permit Law for the Town of Windsor.

§ 93-78 Severability.

A) If any word, phrase, sentence, part, Section, Subsection, or other portion of this Law or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, Section, Subsection, or other portion, or the proscribed Application thereof, shall be severable, and the remaining provisions of this Law, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

B) Any special use permit issued under this law shall be comprehensive and not severable.

If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon election by the Town Board.

§ 93-79 Definitions.

For purposes of this Law, and where not inconsistent with the context of a particular Section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this Section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word “shall” is always mandatory, and not merely directory.

1. **“Accessory Facility or Structure”**: An accessory facility or structure serving or being used in conjunction with a Telecommunications Tower, and located on the same property or lot as the Telecommunications Tower, including but not limited to, utility or transmission equipment storage sheds or cabinets.
2. **“Applicant”**: Shall include any individual, corporation, estate, trust partnership, joint stock company, association of two(2) or more persons, limited liability company, or entity submitting an Application to the Town of Windsor for a Special Use Permit for a Telecommunications Tower.
3. **“Application”**: The form approved by the Town Board, together with all necessary and appropriate documentation that an Applicant submits in order to receive a Special Use Permit for a Telecommunications Tower.
4. **“Antenna”**: A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency signals. Such waves shall include, but not be limited to radio, television, cellular, paging, personal Telecommunications services(PCS), and microwave Telecommunications.
5. **“Board”**: The Town Board of the Town of Windsor, which is the officially designated agency or body of the community to whom applications for a Special Use Permit for a Telecommunications Tower must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, re-certifying or not re-certifying, or revoking special use permits for Telecommunications Towers. The Board may at its discretion delegate or designate other official agencies of the Town to accept, review, analyze, evaluate and make recommendations to the Board with respect to the granting or not granting, re-certifying or not re-certifying or revoking special use permits for Telecommunications Towers.

6. **“Break point”**: The location on a Telecommunications Tower which, in the event of a failure of the Telecommunications Tower, would result in the Telecommunications Tower falling or collapsing within the boundaries of the property on which the Telecommunications Tower is placed.
7. **“Camouflaged Tower”**: Any Tower or supporting structure that, due to design, location, or appearance, partially or completely hides, obscures, conceals, or otherwise disguises the presence of the Tower and one or more Antennas or Antenna arrays affixed thereto.
8. **“Collapse zone”**: The area in which any portion of a Telecommunications Tower could or would fall, collapse or plunge to the ground or into a river or other body of water. The collapse zone shall be no less than the lateral equivalent of the distance from the Break point to the top of the structure plus ten feet, such being not less than one-half (1/2) the height of the structure.
9. **“Collocation”**: The use of the same telecommunications tower or structure to carry two or more antennae for the provision of wireless services by two or more persons or entities.
10. **“Commercial Impracticality”** or **“Commercial Impracticable”** shall have the meaning in the Law and any Special Use Permit granted hereunder as is defined and applied under the New York Uniform Commercial Code (UCC).
11. **“Completed Application”**: An Application that contains all information and/or data necessary to enable the Board to evaluate the merits of the Application, and to make an informed decision with respect to the effect and impact of the Telecommunications Tower on the Town in the context of the permitted land use for the particular location requested.
12. **“County”**: The New York State county in which the Town, Village, or City is physically located.
13. **“Direct-to home satellite services”** or **“Direct Broadcast Service”** or **“DBS”**: Programming transmitted or broadcast by satellite directly to subscribers’ premises without the use of ground receiving equipment, except at the subscribers’ premises or in the up-link process to the satellite.
14. **“EAF”**: The Environmental Assessment Form approved by the New York Department of Environmental Conservation.

15. **“EPA”**: State and/or Federal Environmental Protection Agency or its duly assigned successor agency.
16. **“FAA”**: The Federal Aviation Administration, or its duly designated and authorized successor agency.
17. **“FCC”**: The Federal Telecommunications Commission, or its duly designated and authorized successor agency.
18. **“Free standing Tower”**: A Tower that is not supported by guy wires and ground anchors or other means of attached or external support.
19. **“Height”**: When referring to a Tower of structure, the distance measured from the pre-existing grade level to the highest point on the Tower or structure, even if said highest point is an Antenna.
20. **“NIER”**: Non-Ionizing Electromagnetic Radiation.
21. **“Person”**: Any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or governmental entity.
22. **“Personal Wireless Facility”**: See definition for “Telecommunications Tower”.
23. **“Personal Wireless Services” or “PWS” or “Personal Telecommunications Service” or “PCS”**: Shall have the same meaning as defined and used in the 1996 Telecommunications Act.
24. **“Site”**: See definition for Telecommunications Tower.
25. **“Special Use Permit”**: The official document or permit by which an Applicant is allowed to construct and use a Telecommunications Tower as granted or issued by the Town.
26. **“State”**: The State of New York.
27. **“Telecommunications”**: The transmission and reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.
28. **“Telecommunications Tower” or “Tower” or “Site” or Personal Wireless**

29. “Facility”: A structure or location designed, or intended to be used, or used to support Antennas. It includes without limit, free standing Towers, guyed Towers, monopoles, and similar structures that employ camouflage technology, including, but not limited to structures such as a church steeple, silo, water Tower, sign or other similar structures intended to mitigate the visual impact of an Antenna or the functional equivalent of such. It is a structure intended for transmitting and/or receiving radio, television, cellular, paging, personal Telecommunications services, or microwave Telecommunications, but excluding those used exclusively for fire, police and other dispatch Telecommunications, or exclusively for private radio and television reception and private citizen’s bands, amateur radio and other similar Telecommunications.

30. “Telecommunications Structure”: A structure used in the provision of services described in the definition of “Telecommunications Tower.

31. “Temporary”: In relation to all aspects and components of this Law, something intended to, or that does, exist for fewer than ninety (90) days.

32. “Town”: The Town of Windsor, New York.

§ 93-80 Overall Policy and Desired Goals for Special Use Permits for Telecommunications Towers.

In order to ensure that the placement, construction, and modification of Telecommunications Towers conforms to the Town’s purpose and intent of this law, the Board creates a Special Use Permit for a Telecommunications Tower. As such, the Board adopts an overall policy with respect to a Special Use Permit for a Telecommunications Tower for the express purpose of achieving the following goals:

- 1) Implementing an Application process for person(s) seeking a Special Use Permit for a Telecommunications Tower;
- 2) Establishing a policy for examining an application for and issuing a Special Use Permit for a Telecommunications Tower that is both fair and consistent;
- 3) Establishing reasonable time frames for granting or not granting a Special Use Permit for a Telecommunications Tower, or re-certifying or not re-certifying, or revoking the Special Use Permit granted under this Law;

- 4) Promoting and encouraging, wherever possible, the sharing and/or collocation of a Telecommunications Tower among service providers;
- 5) Promoting and encouraging, wherever possible, the placement of a Telecommunications Tower in such a manner as to cause minimal disruption to aesthetic considerations of the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such a Telecommunications Tower.

§ 93-81 Special Use Permit Application and Other Requirements.

All Applicants for a Special Use Permit for a Telecommunications Tower shall comply with the requirements set forth in this Section.

- A) An Application for a Special Use Permit for a Telecommunications Tower shall be signed on behalf of the Applicant by the person preparing the same and with the knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The landowner, if different than the Applicant, shall also sign the Application. At the discretion of the Board, any false or misleading statement in the Application may subject the Applicant to denial of the Application without further consideration or opportunity for correction.
- B) Applications not meeting the requirements stated herein or which are otherwise incomplete, may be rejected by the Board.
- C) The Applicant shall include a statement in writing:
 - 1) that the applicant's proposed Telecommunications Tower will be maintained in a safe manner, and in compliance with all conditions of the Special Use Permit, without exception, unless specifically granted relief by the Board in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable County, State and Federal laws, rules, and regulations;
 - 2) that the construction of the Telecommunications Tower is legally permissible, including, but not limited to the fact that the Applicant is authorized to do business in New York State.
- D) No Telecommunications Tower shall be installed or constructed until the site plan is reviewed and approved by the Board. The site plan Application shall include, in addition to the other requirements for the Special Use Permit the following additional information:

All applications for the construction or installation of a new Telecommunications Tower shall be accompanied by a report containing the information hereinafter set forth. The report shall be signed by a licensed professional engineer registered in New York State and shall contain the following information. Where this Section calls for certification, such certification shall be by a qualified New York State licensed Professional Engineer acceptable to the Town, unless otherwise noted.

- 1) Name and address of person preparing the report;
- 2) Names and address of the property owner, operator, and Applicant, to include the legal form of the Applicant;
- 3) Postal address and tax map parcel number of the property;
- 4) Zoning District or designation in which the property is situated;
- 5) Size of the property stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines;
- 6) Location of the nearest residential structure;
- 7) Location of nearest habitable structure;
- 8) Location of all structures on the property which is the subject of the Application;
- 9) Location, size and height of all proposed and existing antennae and all appurtenant structures;
- 10) Type, size and location of all proposed and existing landscaping;
- 11) The number, type and design of the Telecommunications Tower(s), Antenna(s) proposed and the basis for the calculations of the Telecommunications Tower's capacity to accommodate multiple users;
- 12) The make, model and manufacturer of the Tower and Antenna(s);
- 13) A description of the proposed Tower and Antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade,
- 14) The frequency, modulation and class of service of radio or other transmitting equipment, materials, color and lighting;
- 15) Transmission and maximum effective radiated power of the Antenna(s);
- 16) Direction of maximum lobes and associated radiation of the Antenna(s);
- 17) Applicant's proposed Tower maintenance and inspection procedures and related system of records;
- 18) Certification that NIER levels at the proposed site are within the threshold levels adopted by the FCC, though the certifying engineer need not be approved by the Town;
- 19) Certification that the proposed Antenna(s) will not cause interference with existing telecommunications devices, though the certifying engineer need not be approved by the Town;
- 20) A copy of the FCC license applicable for the use of the Telecommunications Tower;

- 21) Certification that a topographic and geomorphologic study and analysis has been conducted, and that taking into account the subsurface and substrata, and the proposed drainage plan, that the site is adequate to assure the stability of the proposed Telecommunications Tower on the proposed site, though the certifying engineer need not be approved by the Town;
 - 22) Propagation studies of the proposed site and all adjoining proposed or in-service or existing sites;
 - 23) Applicant shall disclose in writing any agreement in existence prior to submission of the Application that would limit or preclude the ability of the Applicant to share any new Telecommunications Tower that it constructs.
- E) In the case of a new Telecommunications Tower, the Applicant shall be required to submit a report demonstrating its efforts to secure shared use of existing Telecommunications Tower(s). Copies of written requests and responses for shared use shall be provided to the Board;
- F) Certification that the Telecommunications Tower and attachments both are designed and constructed (“As Built”) to meet all County, State and Federal structural requirements for loads, including wind and ice loads;
- G) Certification that the Telecommunications Tower is designed with a break point that would result in the Telecommunications Tower falling or collapsing within the boundaries of the property on which the Telecommunications Tower is placed;
- H) After construction and prior to receiving a Certificate of Compliance, certification that the Telecommunications Tower and related facilities are grounded and bonded so as to protect persons and property and installed with appropriate surge protectors;
- I) The Applicant shall submit a completed long form EAF and a completed Visual EAF addendum. The Board may require submission of a more detailed visual analysis based on the results of the Visual EAF addendum. Applicants are encouraged to seek pre-application meetings with the Town Board to address the scope of the required visual assessment;
- J) A Visual Impact Assessment which shall at the Board’s request include:
- 1) A “Zone of Visibility Map” which shall be provided in order to determine locations where the Tower may be seen.
 - 2) Pictorial representations of “before and after” views from key viewpoints both

inside and outside of the Town, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors or travelers. If requested by the Applicant, the Town Board, acting in consultation with its consultants or experts, will provide guidance concerning the appropriate key sites at a pre-application meeting.

- 3) An assessment of the visual impact of the Tower base, guy wires and accessory buildings from abutting and adjacent properties and streets.
- K) Any and all representations made to the Board, on the record, during the Application process, whether written or verbal, shall be deemed a part of the Application and may be relied upon in good faith by the Board.
 - L) The Applicant shall, in a manner approved by the Board, effectively screen from view its proposed Telecommunications Tower base and all related facilities and structures, subject to Board approval;
 - M) All utilities leading to and away from any Telecommunications Tower site shall be installed underground and in compliance with all laws, rules and regulations of the Town, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate. The Board may waive or vary the requirements of under-grounding installation of utilities whenever, in the opinion of the Board, such variance or waiver shall not be detrimental to the health, safety, general welfare or environment, including the visual and scenic characteristics of the area.
 - N) All Telecommunications Towers and accessory facilities shall be sited so as to have the least practical adverse visual effect on the environment and its character, and the residences in the area of the Telecommunications Tower site;
 - O) Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings;
 - P) An access road and parking will be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and vegetation-cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

- Q) A person who holds a Special Use Permit for a Telecommunications Tower shall construct, operate, maintain, repair, modify or restore the permitted Telecommunications Tower in strict compliance with all current technical, safety and safety-related codes adopted by the Town, County, State, or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsibly workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes;
- R) A holder of a Special Use Permit granted under this Law shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or Law, and must maintain the same, in full force and effect, for as long as required by the Town or other governmental entity or agency having jurisdiction over the applicant;
- S) The Board intends to be the lead agency, pursuant to SEQRA. The Board shall conduct an integrated, comprehensive environmental review of the proposed project in combination with its review of the Application under this Law.
- T) An Applicant shall submit to the Town Clerk the number of completed Applications determined to be needed at the pre-application meeting. A copy of the Application shall be provided to the legislative body of any adjacent municipality and to the County Planning Agency;
- U) The Applicant shall examine the feasibility of designing a proposed Telecommunications Tower to accommodate future demand for at least two (2) additional commercial applications, e.g. future collocations. The scope of this examination shall be determined by the Board. The Telecommunications Tower shall be structurally designed to accommodate at least two (2) additional Antenna Arrays equal to those of the Applicant, and located as close to the Applicant's Antenna as possible without causing interference. This requirement may be waived, provided that the Applicant, in writing, demonstrates that the provisions of future shared usage of the Telecommunications Tower is not technologically feasible, or is Commercially Impracticable and creates an unnecessary and unreasonable burden, based upon:
- 1) The number of FCC licenses foreseeable for the area;
 - 2) The kind of Telecommunications Tower site and structure proposed;
 - 3) The number of existing and potential licenses without Telecommunications Tower spaces/sites;
 - 4) Available space on existing and approved Telecommunications Towers;
- V) Unless waived by the Board, there shall be a pre-application meeting. The purpose of

the pre-application meeting will be to address issues which will help to expedite the review and permitting process. A pre-application meeting may also include a site visit if required. The Applicant should seek to waive any section or sub-section of this Law that may not be required. At the pre-application meeting, the waiver requests, if appropriate, will be decided by the Board. Costs of the Town’s consultants to prepare for and attend the pre-application meeting will be borne by the applicant.

§ 93-82 Location of Telecommunications Towers.

- A. Applicants for Telecommunications Towers shall locate, site and erect said Telecommunications Towers or other tall structures in accordance with the following priorities, one (1) being the highest priority and four (4) being the lowest priority.
 - 1. on existing Telecommunications Towers or other tall structures;
 - 2. collocation on a site with existing Telecommunications Towers or structures.
 - 3. on municipally-owned properties.
 - 4. on other property in the Town.

If the proposed property site is not the highest priority listed above, then a detailed Explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the Applicant if the permit were not granted for the proposed site.

An Applicant may not by-pass sites of higher priority by stating the site presented is the only site leased or selected. An Applicant shall address collocation as an option and if such option is not proposed, the applicant must explain why collocation is Commercially or otherwise Impracticable. Agreements between providers limiting or prohibiting collocation, shall not be a valid basis for any claim of Commercial Impracticability or hardship.

Notwithstanding the above, the Board may approve any site located within an area in the above list of priorities, provided that the Board finds that the proposed site is in the best interest if the health, safety and welfare of the Town and its inhabitants.

The Applicant shall submit a written report demonstrating the applicant’s review of the above locations in order of priority, demonstrating the technological reason for the site selection. If the site selected is not the highest priority, then a detailed written explanation as to why sites of a higher priority were not selected shall be included with the Application.

- B) The Applicant shall, in writing, identify and disclose the number and locations of any additional sites that the Applicant has, is, or will be considering, reviewing or planning for Telecommunications Towers in the Town, and all municipalities adjoining the Town, for a two year period following the date of the Application.
- C) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Board may disapprove an Application for any of the following reasons:
 - 1) conflict with safety and safety-related codes and requirements;
 - 2) conflict with traffic needs or traffic laws, or definitive plans for changes in traffic flow or traffic laws;
 - 3) conflict with the historic nature of a neighborhood or historical district;
 - 4) the use or construction of a Telecommunications Tower which is contrary to an already stated purpose of a specific zoning or land use designation; or
 - 5) the placement and location of a Telecommunications Tower which would create an unacceptable risk, or the probability of such, to residents, the public, employees and agents of the Town, or employees of the service provider or other service providers;
 - 6) Conflicts with the provisions of the Law.

§ 93-83 Shared use of Telecommunications Tower(s).

- A) Shared use of existing Telecommunications Towers shall be preferred by the Town, as opposed to the proposed construction of new Telecommunications Towers. Where such shared use is unavailable, location of Antennas on other pre-existing structures shall be considered and preferred. The Applicant shall submit a comprehensive report inventorying existing towers and other appropriate structures within four (4) miles of any proposed new tower site, unless the Applicant can show that some other distance is more reasonable, and outlining opportunities for shared use of existing facilities and the use of other pre-existing structures as a preferred alternative to new construction.
- B) An Applicant intending to share use of an existing Telecommunications Tower or other tall structure shall be required to document the intent of the existing owner to share use.
- C) In the event of an Application to share the use of an existing Telecommunications Tower that does not increase the height of the Telecommunications Tower, the Board shall waive such requirements of the Application required by this Local Law as may be for good cause shown.

- D) Such shared use shall consist only of the minimum Antenna Array technologically required to provide service within the Town, to the extent practicable, unless good cause is shown.

§ 93-84 Height of a Telecommunications Tower.

- A) The Applicant must submit documentation justifying to the Board the total height of any Telecommunications Tower and/or Antenna and the basis therefor. Such justification shall be to provide service within the Town, to the extent practicable, unless good cause is shown.
- B) Telecommunications Towers shall be no higher than the minimum height necessary. Unless waived by the Board upon good cause shown, the presumed maximum height shall be one hundred-forty (140) feet, based on three (3) collocated antenna arrays and ambient tree height of eighty (80) feet.
- C) The maximum height of any Telecommunications Tower and attached Antennas constructed after the effective date of this Law shall not exceed that which shall permit operation without artificial lighting of any kind or nature, in accordance with municipal, County, State, and/or any Federal law and/or regulation.

§ 93-85 Visibility of a Telecommunications Tower.

- A) Telecommunications Towers shall not be artificially lighted or marked, except as required by law.
- B) Telecommunications Towers shall be of a galvanized finish, or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings as approved by the Board, and shall be maintained in accordance with the requirements of this Law.
- C) If lighting is required, Applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under state and federal regulations, and an artist's rendering or other visual representation showing the effect of light emanating from the site on neighboring habitable structures within fifteen-hundred (1,500) feet of all property lines of the parcel on which the Telecommunications Tower is located;

§ 93-86 Security of Telecommunications Towers.

All Telecommunications Towers and Antennas shall be located, fenced or otherwise

secured in a manner which prevents unauthorized access. Specifically:

1. All Antennas, Towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or run into; and
2. Transmitters and Telecommunications control points must be installed such that they are readily accessible only to persons authorized to operate or service them.

§ 93-87 Signage.

Telecommunications Towers shall contain a sign no larger than four (4) square feet to provide adequate notification to persons in the immediate area of the presence of an Antenna that has transmission capabilities. The sign shall contain the name(s) of the owner(s) and operator(s) of the Antenna(s) as well as emergency phone numbers(s). The sign shall be located so as to be visible from the access point of the site. No other signage, including advertising, shall be permitted on any Antennas, Antenna supporting structures or Antenna Towers, unless required by law.

§ 93-88 Lot Size and Setbacks.

- A) All proposed Communications Towers shall be set back from abutting parcels, recorded rights-of-way and road and street lines a distance sufficient to substantially contain on-site all ice-fall or debris from a Tower or Tower failure, and to preserve the privacy and sanctity of any adjoining properties.
- B) Telecommunications Towers shall be located with a minimum setback from any property line a distance equal to one half (1/2) the height of the Tower or the existing setback requirement of the underlying zoning district whichever is greater. Further, any accessory structure shall be located so as to comply with the minimum setback requirements for the property on which it is situated.

§ 93-89 Retention of Expert Assistance and Reimbursement by Applicant.

- A) The Board may hire any consultant and/or expert necessary to assist the Board in reviewing and evaluating the Application and any requests for re-certification.
- B) An Applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Board in connection with the review of any Application. The initial deposit shall be \$7,500.00. These funds shall accompany the filing of an Application and the Town will maintain

separate escrow account of all such funds. The Town's consultants/experts shall bill or invoice the Town no less Frequently than monthly for its services in reviewing the Application and performing its duties. If at any time during the review process this escrow account is depleted, additional funds must be submitted to the Town before any further action or consideration is taken on the Application. If at the conclusion of the review process the cost of such consultant/expert services is more than the amount escrowed pursuant hereto, the Applicant shall pay the difference to the Town prior to the issuance of any Special Use Permit. In the event that the amount held in escrow by the Town is more than the amount of the actual billing or invoicing, the difference shall be promptly refunded to the Applicant.

- C) The total amount of the funds set forth in subsection (B) of this Section may vary with the scope and complexity of the project, the completeness of the Application and other information as may be needed by the Board or its consultant/expert to complete the necessary review and analysis. Additional funds, as required, shall be paid by the Applicant. The initial amount of the escrow deposit shall be established at a pre-Application meeting with the Town. Notice of the hiring of a consultant/expert shall be given to the Applicant at or before this meeting.

§ 93-90 Exceptions from a Special Use Permit for a Telecommunications Tower.

- A) No person shall be permitted to site, place, build, construct or modify, or prepare any site for the placement or use of, a Telecommunications Tower as of the effective date of this Law without having first obtained a Special Use Permit for a Telecommunications Tower. Notwithstanding anything to the contrary in this Section, no Special Use Permit shall be required for those exceptions noted in the definition of Telecommunications Tower.
- B) New construction, including routine maintenance on an existing Telecommunications Tower, shall comply with the requirements of this Law.
- C) All Telecommunications Towers existing on or before the effective date of this Law shall be allowed to continue as they presently exist, provided however, that any modification to existing Towers must comply with this Law.

§ 93-91 Public Hearing Required.

- A) Prior to the approval of any Application for a Special Use Permit for a Telecommunications Tower, a public hearing shall be held by the Town Board, notice of which shall be published in the official newspaper of the Town no less than two

weeks prior to the scheduled date of the public hearing. In order that the Town may notify nearby landowners the Applicant, at least three (3) weeks prior to the date of said public hearing, shall be required to provide names and addresses of all landowners whose property is located within fifteen hundred (1,500) feet of any property line of the parcel on which the proposed new Telecommunications Tower is proposed to be located.

- B) The Board shall schedule the public hearing referred to in Subsection (A) of this Section once it finds the Application is complete. The Board, at any stage prior to issuing a Special Use Permit, may require such additional information as it deems necessary.

§ 93-92 Action on an Application for a Special Use Permit for a Telecommunications Tower.

- A) The Board will undertake a review of an Application pursuant to this law in a timely fashion, consistent with its responsibilities, and shall act within a reasonable period of time given the relative complexity of the Application and the circumstances, with due regard for the public's interest and need to be involved, and the Applicant's desire for a timely resolution.
- B) The Board may refer any Application or part thereof to any advisory or other committee for a non-binding recommendation.
- C) Except for necessary building permits, and subsequent Certificates of Compliance, no additional permits or approvals from the Town, e.g. site plan or zoning approvals, shall be required for Telecommunications Towers or facilities covered by this Law.
- D) After the public hearing and after formally considering the Application, the Board may approve and issue, or deny a Special Use Permit. Its decision shall be in writing and shall be based on substantial evidence upon a record. The burden of proof for the grant of the permit shall always be upon the Applicant.
- E) If the Board approves the Special Use Permit for a Telecommunications Tower, then the Applicant shall be notified of such approval in writing within ten (10) calendar days of the Board's action, and the Special Use Permit shall be issued within thirty (30) days after such approval.
- F) If the Board denies the Special Use Permit for a Telecommunications Tower, then the Applicant shall be notified of such denial in writing within ten (10) calendar days of the Board's action.
- G) The Town's decision on an Application for a Special Use Permit for a Telecommunications Tower shall be supported by substantial evidence contained in a written record.

§ 93-93 Re-certification of a Special Use Permit for a Telecommunications Tower.

- A) At any time between twelve (12) months and six (6) months prior to the five (5) year anniversary date after the effective date of the permit and all subsequent fifth anniversaries of the original Special Use Permit for a Telecommunications Tower, the holder of a Special Use Permit for such Tower shall submit a written request for re-certification. In the written request for re-certification, the holder of such Special Use Permit shall note the following:
- 1) the name of the holder of the Special Use Permit for the Telecommunication Tower.
 - 2) if applicable, the number or title of the Special Use Permit;
 - 3) the date of the original granting of the Special Use Permit;
 - 4) whether the Telecommunications Tower has been moved, re-located, rebuilt, repaired, or otherwise modified since the issuance of the Special Use Permit;
 - 5) if the Telecommunications Tower has been moved, re-located, rebuilt, repaired, or otherwise modified, then whether the Board approved such action, and under what terms and conditions, and whether those terms and conditions were complied with and abided by;
 - 6) any requests for waivers or relief of any kind whatsoever from the requirements of this Law and any requirements for a Special Use Permit; and
 - 7) that the Telecommunications Tower is in compliance with the Special Use Permit and compliance with all applicable codes, laws, rules and regulations.
- B) If, after such review, the Board determines that the permitted Telecommunications Tower is in compliance with the Special Use Permit and all applicable codes, laws and rules, then the Board shall issue a re-certification Special Use Permit for the Telecommunications Tower, which may include any new provisions or conditions that are mutually agreed upon, or required by codes, law or regulation.
- C) If the Board does not complete its review, as noted in Subsection(B) of this Section, prior to the five (5) year anniversary date of the Special Use Permit, or subsequent fifth anniversaries, then the Applicant for the permitted Telecommunications Tower shall receive an extension of the Special Use Permit for up to six (6) months, in order for the Board to complete its review.
- D) If the holder of a Special Use Permit for a Telecommunications Tower does not submit a request for re-certification of such Special Use Permit within the time frame noted in

Subsection (A) of this Section, then such Special Use Permit and any authorizations granted there under shall cease to exist on the date of the fifth anniversary of the original granting of the Special Use Permit, or subsequent fifth anniversaries, unless the holder of the Special Use Permit adequately demonstrates to the Board that extenuating circumstances prevented a timely re-certification request. If the Board agrees that there were legitimately extenuating circumstances, then the holder of the Special Use Permit may submit a late re-certification request.

§ 93-94 Extent and Parameters of Special Use Permit for a Telecommunications Tower.

The extent and parameters of a Special Use Permit for a Telecommunications Tower shall be as follows:

- 1) such Special Use Permit shall be non-exclusive;
- 2) such Special Use Permit shall not be assignable or transferable without the express written consent of the Board, and such consent shall not be unreasonably withheld;
- 3) such Special Use Permit may be revoked, canceled, or terminated for a violation of the conditions and provisions of the Special Use Permit for a Telecommunications Tower, or for a material violation of this Law.

§ 93-95 Application Fee.

- A) At the time that a person submits an Application for a Special Use permit for a new Telecommunications Tower, such person shall pay an application fee to the Town of Windsor of Twenty-five hundred Dollars (\$2,500.00). If the Application is for a Special Use Permit for collocating on an existing Telecommunications Tower, the fee shall be Five hundred Dollars (\$500.00).
- B) No Application fee is required in order to re-certify a Special Use Permit for a Telecommunications Tower, unless there has been a modification of the Telecommunications Tower since the date of the issuance of the existing Special Use Permit. In the case of any modification, the fees provided in Subsection (A) shall apply.

§ 93-96 Performance Security.

The Applicant and the owner of record of any proposed Telecommunications Tower property site shall be jointly required to execute and file with the Town a bond, or other form of security acceptable to the Town as to type of security and the form and manner of execution, in an amount and with such sureties as are deemed sufficient by the Board to assure the faithful performance of the terms and conditions of this Law and conditions of any Special Use Permit issued pursuant to this Law. The full amount of the bond or security shall remain in full force and effect throughout the term of the Special Use Permit and/or until the removal of the Telecommunications Tower, and any necessary site restoration is completed. The failure to pay any annual premium for the renewal of any such security shall be a violation of the provisions of the Special Use Permit and shall entitle the Board to revoke the Special Use Permit after prior written notice to the Applicant and holder of the permit.

§ 93-97 Reservation of Authority to Inspect Telecommunications Towers.

- A) In order to verify that the holder of a Special Use Permit for a Telecommunications Tower and any and all lessees, renters, and/or licensees of a Telecommunications Tower place and construct such facilities, including Towers and Antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the Town may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, Towers, Antennas and buildings or other structures constructed or located on the permitted site.
- B) The Town shall pay for costs associated with such an inspection, except for those circumstances occasioned by said holder's, lessee's refusal to provide necessary information, or necessary access to such facilities including Towers, Antennas, and appurtenant or associated facilities, or refusal to otherwise cooperate with the Town with respect to an inspection, or if violations of this Law are found to exist, in which case the holder, lessee or licensee shall reimburse the Town for the cost of the inspection.
- C) Payment of such costs shall be made to the Town within thirty (30) days from the date of the invoice or other demand for reimbursement. In the event that the finding(s) of violation is/are appealed in accordance with the procedures set forth in this Law, said reimbursement payment must still be paid to the Town specifically for this purpose, pending the final decision on appeal.

§ 93-98 Annual NIER Certification.

The holder of the Special Use Permit shall, annually, certify to the Town that NIER levels at the site are within the threshold levels adopted by the FCC. (The certifying engineer need not be approved by the Town.)

§ 93-99 Liability Insurance.

- A) A holder of a Special Use Permit for a Telecommunications Tower shall secure and at all times maintain public liability insurance, property damage insurance, and umbrella insurance coverage for the duration of the Special Use Permit in amounts as set forth below:
- 1) Commercial General Liability: \$1,000,000.00 [occurrence/\$2,000,000.00 aggregate;
 - 2) Automobile Coverage: \$1,000,000.00 per occurrence/\$2,000,000.00 aggregate;
 - 3) Workers Compensation and Disability: Statutory amounts.
- B) The Commercial General liability insurance policy shall specifically include the Town and its officials, employees and agents as additional insureds.
- C) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State.
- D) The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town with at least thirty (30) days written notice in advance of the cancellation of the insurance.
- E) Renewal or replacement policies or certificates shall be delivered to the Town at least fifteen (15) days before the expiration of the insurance which such policies are to renew or replace.
- F) Before construction of a permitted Telecommunications Tower is initiated, but in no case later than fifteen (15) days after the grant of the Special Use Permit, the holder of the Special Use Permit shall deliver to the Town a copy of each of the policies or certificates representing the insurance in the required amounts.

§ 93-100 Indemnification.

- A) Any Special Use Permit issued pursuant to this Law shall contain a provision with respect to indemnification. Such provision shall require the holder of the Special Use Permit, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the Town, officials of the Town, its officers, agents, servants, and employees, from any and all penalties, damage, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of , or are caused by the construction, erection, modification, location, products performance, operation, maintenance, repair, installation, replacement, removal, or restoration of a Telecommunications Tower within the Town of Windsor. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Town.
- B) Notwithstanding the requirements noted in Subsection (A) of this Section, an indemnification provision will not be required in those instances where the Town itself applies for and secures a Special Use Permit for a Telecommunications Tower.

§ 93-101 Fines.

- A) For a violation of this Law or any provision, term or condition of a Special Use Permit issued pursuant to this Law, the Board may impose and collect, and the holder of the Special Use Permit for a Telecommunications Tower shall pay to the Town, fines or penalties as set forth in Section 268 of the Town Law of the State of New York.
- B) Notwithstanding anything in this Law, the holder of the Special Use Permit for a Telecommunications Tower may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this Law or any Section of this Law. An attempt to do so shall subject the holder of the Special Use Permit to termination and revocation of the Special Use Permit. The Town may also seek injunctive relief to prevent the continued violation of this Law.

§ 93-102 Default and/or Revocation.

- A) If a Telecommunications Tower is repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Law or of the Special Use Permit, then the Board shall notify the holder of the Special Use Permit in writing of such violation. Such notice shall specify the nature of the violation or non-compliance and that the violations must be corrected

within seven (7) days of the date of the postmark of the Notice, or of the date of personal service of the Notice, whichever is earlier. Notwithstanding anything to the contrary in this Subsection or any other Section of this Law, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Board may, at its sole discretion, order the violation remedied within twenty-four (24) hours.

- B) If within the period set forth in (A) above the Telecommunications Tower is not brought into compliance with the provisions of this Law, or of the Special Use Permit, or substantial steps are not taken in order to bring the affected Telecommunications Tower into compliance, then the Board may revoke such Special Use Permit for a Telecommunications Tower, and shall notify the holder of the Special Use Permit within Forty-eight (48) hours of such action.

§ 93-103 Removal of a Telecommunications Tower.

- A) Under the following circumstances, the Board may determine that the health, safety, and welfare interests of the Town warrant and require the removal of a Telecommunications Tower.
- 1) a Telecommunications Tower with a permit has been abandoned (i.e. not used as a Telecommunications Tower) for a period exceeding ninety consecutive (90) days or a total of one hundred-eighty (180) days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God;
 - 2) a permitted Telecommunications Tower falls into such a state of disrepair that it creates a health or safety hazard;
 - 3) a Telecommunications Tower has been located, constructed, or modified without first obtaining the required Special Use Permit, or any other necessary authorization.
- B) If the Board makes such a determination as noted in Subsection (A) of this Section, then the Board shall notify the holder of the Special Use Permit for the Telecommunications Tower within forty-eight (48) hours that said Telecommunications Tower is to be removed. The Board may approve an Interim Temporary Use Agreement/Permit, such as to enable the sale of the Telecommunications Tower.
- C) The holder of the Special Use Permit, or its successors or assignees, shall dismantle and remove such Telecommunications Tower, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such

restoration being limited only by physical or commercial impracticability, within ninety (90) days of receipt of written notice from the Board. However, if the owner of the property upon which the Telecommunications Tower is located wishes to retain any access roadway to the Telecommunications Tower, the owner may do so with the approval of the Board.

- D) If a Telecommunications Tower is not removed or substantial progress has not been made to remove the Telecommunications Tower within ninety (90) days after the permit holder has received notice, then the Board may order officials or representatives of the Town to remove the Telecommunications Tower at the sole expense of the owner or permit holder.
- E) If, the Town removes, or causes to be removed, a Telecommunications Tower, and the owner of the Telecommunications Tower does not claim the property and remove it from the site to a lawful location within ten (10) days, then the Town may take steps to declare the Telecommunications Tower abandoned, and sell it and its components.
- F) Notwithstanding anything in this Section to the contrary, the Board may approve a Temporary Use Agreement/Permit for the Telecommunications Tower, for no more than ninety (90) days, during which time a suitable plan for removal, conversion, or relocation of the affected Telecommunications Tower shall be developed by the holder of the permit, subject to the approval of the Board, and an agreement to such plan shall be executed by the holder of the permit and the Town. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the Town may take possession of and dispose of the affected Telecommunications Tower in the manner provided in this Section.

§ 93-104 Relief.

Any Applicant desiring relief or exemption from any aspect or requirement of this Law may request such from the Board at a pre-Application meeting, provided that the relief or exemption is contained in the original Application for either a Special Use Permit, or in the case of an existing or previously granted Special Use Permit a request for modification of its Tower and/or facilities. Such relief may be temporary or permanent, partial or complete, at the sole discretion of the Board.

However, the burden of proving the need for the requested relief or exemption, is solely on the Applicant to prove to the satisfaction of the Board. The Applicant shall bear all costs of the Board or the Town in considering the request and the relief shall not be transferable to a new or different holder of the permit or owner of the Tower or facilities without the specific written permission of the Board, and such permission shall not be unreasonably withheld. No such relief or exemption shall be approved unless the Applicant demonstrates by clear and convincing evidence that, if granted, the relief or exemption will have no significant affect on the health, safety and welfare of the Town, its residents and other service providers.

§ 93-105 Periodic Regulatory Review by the Board.

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

§ 93-106 Adherence to State and/or Federal Rules and Regulations.

- A) To the extent that the holder of a Special Use Permit for a Telecommunications Tower has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such a Special Use Permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.
- B) To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a Special Use Permit for a Telecommunications Tower, then the holder of such a Special Use Permit shall conform the permitted Telecommunications Tower to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

§ 93-107 Conflict with Other Laws.

Where this Law differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the County, State or Federal government, the more restrictive or protective of the Town and the public shall apply.

§ 93-108 Effective Date.

This Law shall be effective immediately upon passage, pursuant to applicable legal and procedural requirements.

§ 93-109 Authority.

This Local Law is enacted pursuant to the Municipal Home Rule Law. This Local Law shall supersede the provisions of Town Law to the extent it is inconsistent with the same, and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law, or any other applicable statute.