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## ARTICLE I

### GENERAL PROVISIONS

#### SECTION 101 TITLE

This Local Law shall be entitled the "Zoning Law of the Town of Royalton." The Zoning Ordinance of April 2, 1955 as revised and amended is hereby repealed upon the effective date of this Local Law. Such repeal will not affect or impair any act done, violation committed or right accruing or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time such repeal takes effect, but the same may be enjoyed, asserted, prosecuted or enforced as fully and to the same extent as if such repeal had not taken place.

#### SECTION 102 PURPOSE

This Local Law is adopted pursuant to the Municipal Home Rule Law and Town Law of the State of New York to promote and protect the health, safety and general welfare of the Town of Royalton. It is the purpose of this Local Law to encourage the most appropriate use of land throughout the Town and to conserve the value of property. Particular objectives include the following:

1. To protect and conserve the open, rural and natural character of the land.
2. To preserve the Town's agricultural resources, protect the agricultural economy, and to encourage customary farming practices within the Town of Royalton.
3. To preserve and protect significant natural features and vegetation, thereby preventing ecological damage and visual blight which could occur if these features or vegetation were substantially altered to serve development purposes only.
4. To provide for the planned growth of agricultural, residential, commercial and industrial use of the land consistent with the economic and social needs of the community and its development policies.
5. To secure safety from fire, flood, panic and other dangers.
6. To prevent the overcrowding of land and to avoid undue concentration of population, and to that end, to regulate the height and size of buildings and other structures; the percentage of the area of the lot that may be occupied; the size of yards and other open spaces; the density of population and the location and the use of buildings, structures and land for various uses.
7. To encourage structures and land use arrangements which are aesthetically harmonious with nearby areas and structures.
8. To eliminate non-conforming uses gradually.
9. To lessen and, where possible, to prevent traffic congestion on public streets and highways.
10. To establish zones and zoning patterns designed to afford economical extensions for public water supplies and public sewers and other public utilities as well as the development of recreational and other public facilities.

## SECTION 103 CONFLICT WITH OTHER LAWS; INTERPRETATION

Whenever the requirements of this Local Law conflict with the requirements of any other laws, rules, regulations, codes or ordinances, the most restrictive of such laws, rules, regulations, codes or ordinances or those imposing the higher standards shall govern. In their interpretation and application, the provisions of this Local Law shall be held to be the minimum requirements adopted for the promotion of public health, safety, comfort, convenience, and general welfare. It is not intended by this Local Law to repeal, abrogate, annul or in any way impair or interfere with the existing provisions of law or with any permits previously adopted or issued; nor is it intended by this Local Law to interfere or abrogate or annul any easements, covenants or other agreements between the parties; provided however, that where this Local Law imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger yards, courts or other open spaces than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, or by such easement, covenant or agreement, the provisions of this Local Law shall control.

## SECTION 104 VALIDITY AND SEVERABILITY

In case any provision or section of this local law shall be held invalid by any court of competent jurisdiction, the same shall not affect any other section or provision of this Local Law, except so far as the section or portion so declared invalid shall be inseparable from the remainder of any portion thereof.

## SECTION 105 FEES

Permit fees shall be collected and paid according to the fee schedule which shall be in effect at the time of the application. A fee schedule shall be posted on the official bulletin board in the Town Clerk's Office.

## SECTION 106 VIOLATIONS AND PENALTIES

A violation of any of the provisions of this Zoning Law by an owner of land and/or a builder or contractor shall constitute an offense punishable either:

1. By the imposition of a fine not exceeding \$350.00 or imprisonment for a period not exceeding six (6) months, or both, for conviction of a first offense; for a conviction of a second offense, both of which were committed within a period of five (5) years, by a fine of not less than \$350.00, nor more than \$750.00, or imprisonment for a period not exceeding six (6) months, or both; and, for conviction of a third or subsequent offense, all of which were committed within a period of five (5) years, by a fine not less than \$700.00 not more than \$1000.00, or imprisonment for a period not exceeding six (6) months, or both; or
2. By the imposition of a Civil Penalty in the above amounts, which said penalty may be assessed and recoverable against the violator in a Small Claims Proceeding

instituted by the Town in the Town Justice Court, pursuant to the provisions of Article 18 of the Uniform Justice Court Act.

3. Each week's continued violation shall constitute a separate, additional violation for which separate and additional fines or Civil Penalties in the above amounts may be imposed or recovered.

#### SECTION 107 ACTIONS

The Town may maintain an action for a temporary restraining order, temporary injunction or injunction to restrain, correct or abate any violation of this Local Law or any failure to comply with any provisions of this Local Law. Such action by the Town may be in addition to any prosecution charging a violation of this Local Law as referred to in Section 106 above and may include a civil judgement for the costs of any acts necessary to correct any violations as well as recovering the town's legal fees and costs.

#### SECTION 108 REMOVAL OF VIOLATIONS

Any building or structure erected, or any use conducted without a zoning permit or certificate of occupancy, where required, or not in conformity with the provisions of this Local Law may be removed, closed or halted at once by the Zoning Enforcement Officer with the issuance of a stop order, with the assistance, if deemed necessary, of any appropriate peace officer, Town officer or employee.

Any person aggrieved by any stop order may apply within ten (10) days of said order to the Zoning Board of Appeals for review of said order. A notice of the right to appeal shall be included with the stop work order.

#### SECTION 109 EFFECTIVE DATE

This Local Law shall take effect on the twentieth day after the same has been adopted by the Town Board, provided it has been filed in accordance with Section 27 of the Municipal Home Rule Law and further provided that there has been published once in the official newspaper of the Town a public notice of it's adoption thereof containing a brief description of the provisions thereof and a statement that the full text thereof can be inspected at the office of the Town Clerk.

### **ARTICLE II**

#### **DEFINITIONS**

#### SECTION 200 WORD TERMS AND DEFINITIONS

For the purpose of this Local Law, all words used in this Local Law shall carry their customary meanings, except where specifically defined herein. Words used in the present tense include the future tense. Singular includes the plural and the plural includes the singular. The word "District" includes the plural "Districts." The word "Lot" includes the

word "Plot". The word "Person" includes a firm, association or organization, partnership, trust, company or combination, as well as an individual. The words "Shall" and "Must" are mandatory. The words "Used" or "Occupied" include the words "Intended, Designed or Arranged to be Used or Occupied" and the words "Occupancy" and "Use" shall be construed as similarly qualified. When doubts arise as to the meaning of words, phrases, sentences and paragraphs, their precise meaning, applicable to specific cases, shall be determined by the Zoning Board of Appeals.

## SECTION 210 DEFINITIONS

**ACCESSORY USE OR STRUCTURE:** A use or structure on the same lot and of a nature customarily incidental and subordinate to the principal use or structure and may include alternate energy systems.

**AGRICULTURE:** The use of land for agricultural purposes including tilling of the soil, dairying, pasture, apiculture, arboriculture, horticulture, floriculture, viticulture, forestry, animal and poultry husbandry and the necessary accessory uses for packing or storing of products, provided that the operation of any such accessory uses shall be secondary to that of normal agricultural activities, and provided further that such uses shall not include the commercial feeding of garbage and offal to swine or other animals.

**AGRICULTURE BUSINESS ESTABLISHMENT (AGRI BUSINESS):** A business engaged in performing agricultural, animal husbandry or horticulture services on a fee or contract basis including corn shelling, hay baling and combining; sorting, grading and packing fruits and vegetables for the grower; agricultural produce milling and processing; horticultural services; crop dusting; fruit picking; grain cleaning; land grading; harvesting and plowing.

**AIRPORT:** Any facility or area used for the purpose of engaging aircraft to flight.

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

**ALTERNATE ENERGY SYSTEMS:** Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on a site and may be attached to or separate from the principal structure. Current examples include windmills, solar collectors, solar greenhouses, heat pumps or other related devices. For the purposes of this Local Law, this definition shall apply to individual residences or businesses; commercial generating plants are excluded.

**AMUSEMENT CENTER:** Any indoor place or enclosure in which is maintained or operated for the amusement, patronage or recreation of the public three (3) or more coin-controlled amusement devices, including the types commonly known as pinball, baseball, football and video games.

**ANIMAL HOSPITAL:** A business that treats animals and regularly houses them on the premises overnight or for such periods as may be required for their proper treatment.

**ANIMAL HUSBANDRY:** The keeping, raising, feeding and care of animals other than household pets; bee-keeping; fur farming and all other activities whether or not commonly known as farming involving the raising of any type of animals.

**APARTMENT, ACCESSORY:** A dwelling unit for rent or lease within or attached to a larger structure that is incidental and subordinate to the primary use of that structure and not under separate ownership. An accessory apartment is secondary in nature to a remaining structure and has not more than 800 s.f. of living area with or without separate entrances or interior connecting doors, or is in a separate accessory building on the same lot.

**APPROVED:** Approved by the Zoning Enforcement Officer under the regulations established by this Local Law and such other appropriate regulations as may be applicable.

**AUTOMOBILE LAUNDRY, CARWASH:** An establishment designed for the washing, waxing, simonizing or similar treatment of automotive vehicles as its principal function. A filling station or retail gasoline station or outlet having portable washing equipment shall not be deemed to be an automobile laundry where such use is an accessory service to the principal service of selling fuel for motor vehicles.

**BASEMENT:** A story partly underground but having less than one-half of its clear height below the average finished grade.

**BED-AND-BREAKFAST:** Any establishment occupied by the owner which lets three or less rooms for hire for transient occupancy and which is not a hotel or motel.

**BILLBOARD:** A sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed or only incidentally sold, offered or existing upon such lot.

**BUFFER AREA:** An area bordering the zoning district boundary between one zone and another or bordering any lot line between lots with different use authorizations reserved for plantings, fencing or other similar screening devices for the purpose of creating a transition area wherein adjoining uses do not detract from one another.

**BUILDING:** Any structure which is affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing or enclosure of person, animals or chattel but shall not include any structure having a horizontal area of less than 140 square feet.

**BUILDING HEIGHT:** The vertical distance measured from the mean level of the ground surrounding the building to a point midway between the highest and lowest point of the roof, but not including chimneys, spires, towers, tanks, silos, cupolas, domes, belfries, flagpoles, stage towers or scenery lofts, radio or television towers, transmission lines or towers or similar structures and projections.

**BUILDING LINE:** A line parallel to the lot line, or to the major portion thereof, transecting that point in a building face which is the closest to such lot line. The building face includes sun parlors, breezeways and porches, whether enclosed or unenclosed, but does not include steps (see Setback-Front).

**BUILDING, FRONT LINE OF:** The building line nearest the front street line, or if there are street lines on two or more sides of the building, it is the building line so fronting in which the principal entrance is located.

**BUSINESS, CONVENIENCE:** Small commercial establishments catering primarily to nearby residential areas which provide convenience goods and services including but not limited to grocery stores (of less than 5,000 square feet in floor area), drug stores, beauty salons, barber shops, laundromats, carryout dry cleaning and laundry pick-up stations.

**BUSINESS, GENERAL:** An establishment engaged in sale of goods or services not otherwise identified in this section and includes retail business.

**BUSINESS, SERVICE:** A commercial establishment primarily providing services, rather than selling products.

**CAMPING TRAILER:** "See Recreational Trailer".

**CAMPGROUND:** A parcel of land used or intended to be used, let or rented for occupancy by campers or for occupancy by or of trailers, tents or moveable or temporary dwellings, rooms or sleeping quarters of any kind.

**CARPOR:** A roofed structure, with or without enclosing walls, used for the storage of one or more motor vehicles.

**CARWASH:** "See Automobile Laundry"

**CELLAR:** A story partly underground and having one-half or more than one-half of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories.

**CHURCH:** This term includes any or all of the following: church, cathedral, temple, synagogue, manse, rectory, convent, parish school or similar building incidental to the particular use; school for religious education; convents and other buildings for the housing of students, teachers, communicants and domestic or maintenance employees; but not including business offices (except administrative offices incidental to the operation of the particular use), rescue missions or the occasional use for religious purposes of properties not regularly so used.

**CLUB:** Any organization catering to members and their guests, or premises and building for recreational, general social or athletic purposes and not open to the general public, which are not conducted primarily for gain, providing there are not conducted any vending stands, merchandising or commercial activities except as required for the membership and purposes of such club. For the purpose of this Local Law, clubs shall include religious organizations, lodges, fraternal organizations, mutual benefit societies and other like organizations.

**CUSTOM WORK, SHOP FOR:** A business premises used for the making of clothing, millinery, shoes or other personal articles to individual orders and measure, for sale at retail on the premises only, and not including the manufacture of "ready-to-wear" or standardized products.

**DAY CARE:** Care provided for three (3) or more children away from their own homes for more than 3 hours but less than 24 hours per day per child, which care is provided with or without compensation or payment.

**DAY CARE CENTER:** A place other than an occupied residence which provides day care of children.

**DAY CARE HOME (FAMILY):** Day care of not more than six (6) children provided in a family home.

**DEVELOPMENT:** Any change made by any person to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations, excluding normal maintenance to farm roads and farm ditches.

**DWELLING:** Any building or portion thereof designed or used as a residence for one or more individual persons.

**SINGLE-FAMILY:** A detached residential dwelling designed for occupancy by one family only.

**TWO-FAMILY:** A detached residential building containing two dwelling units designed for occupancy by not more than two families.

**MULTIPLE-FAMILY:** A residential building designed for or occupied by three or more families with the number of families in residence not exceeding the number of dwelling units provided.

**DWELLING UNIT:** A room or rooms connected together constituting a separate, independent housekeeping establishment and physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking and sleeping facilities designed for occupancy by one family.

**ESSENTIAL SERVICES:** Erection, construction, alteration, operation or maintenance by municipal agencies or public utilities of telephone dial equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities or public receiving and retransmission or communication signals; but does not include telecommunications towers or service facilities.

**FAMILY:** A household consisting of a single housekeeping unit occupied by one or more persons.

**FARM:** Any parcel of land containing at least ten (10) acres, which parcel is used for gain in the raising of agricultural products, livestock, poultry or dairy products, including necessary farm structures. The term farm, as used in this Local Law, does not include fur farms, commercial and livery stables, dog kennels and industrial poultry farms.

**FARM BUILDING; AGRICULTURAL BUILDING:** Any building used for the housing of agricultural equipment, produce, livestock, or poultry, or for the incidental or customary processing of farm products, and provided that such building is located on, operated in conjunction with, and necessary to the operation of the farm as defined by this Article. The term "farm building" shall not include "farm dwelling".

**FARM LABOR CAMP - PRIVATE:** A labor camp housing facilities, building or buildings in which people are housed who are employed in the individual farmer's personal farming operation.

**FARM LABOR CAMP - COMMERCIAL:** Any structure or combination of structures designed or intended to be used for the housing of persons engaged in casual or per diem labor on a profit basis for farmers other than the owner of the camp.

**FENCE:** A structure designed either to limit access to or from a land area or to screen such area from view, or both.

**FLOOR AREA, GROSS:** For the purpose of applying the requirements for off-street parking and loading, "gross floor area" in the case of offices, merchandising or service types of uses shall mean the total floor area to be used or intended to be used by tenants or for service to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for display or sales or merchandise. It shall not include areas used principally for non-public purposes such as storage, incidental repair, restrooms, fitting or alteration rooms or general maintenance or enclosed pedestrian malls or corridors.

**FLOOR AREA, HABITABLE:** The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and useable for human occupancy.

**GARAGES, PRIVATE:** An accessory building not operated for gain and used in conjunction with a principal building which provides for the storage of motor vehicles and/or other household items.

**HISTORIC BUILDING:** Any building which has been specifically designated as historically significant by the State of New York, County of Niagara or Town of Royalton or which is listed in "The National Register of Historic Places" or which has been determined to be eligible for listing in the National Register by the Secretary of the Interior.

**HOME BUSINESS:** An occupation conducted within a single family dwelling or an attached or detached accessory structure (including a barn) for gainful employment involving the manufacturing, provision or sale of goods and services on or off the premises.

**HOME OCCUPATION:** An occupation conducted in a single family occupied dwelling or customary accessory structure involving the performance of services primarily utilized away from the premises, and carried on by members of the family.

**HOME PROFESSIONAL OFFICE:** The office or studio of a resident physician, surgeon, dentist or other person licensed by the State of New York to practice a healing art, lawyer, architect, artist, engineer, real estate broker or salesman, insurance broker or agent or teacher as herein restricted; provided that not more than two persons are employed who are not members of the family, and that such office shall be in the main dwelling or customary accessory structure and shall not occupy more than the equivalent of one-half of the area of one floor of the dwelling. For the purposes of this paragraph, a "teacher" shall be restricted to a person giving individual instruction to a single pupil at a time. A home professional office shall not include the office of any person professionally engaged in the purchase or sale of economic goods. Tea rooms, tourist homes, beauty parlors, barber shops, hairdressing and manicuring establishments, convalescent homes, mortuary establishments and stores, trades or businesses of any kind not herein specified shall not be deemed to be home professional offices. The home professional office of a physician shall not include a biological or other medical testing laboratory.

**INDUSTRIAL AGRICULTURAL ENTERPRISE:** The intensive feeding of animals carried on as an industry in a limited area where less than 10 percent by weight of the feed stuffs consumed by and the litter used for such animals is grown on the premises.

**INDUSTRIALIZED POULTRY FARM:** The keeping or raising of more than 5,000 fowl at one time.

**JUNK YARD:** A lot, land or structure or part thereof used for the collection, storage, disassembly, parking, sorting, salvage, buying, selling or exchange of wastepaper, rags, scrap, or discarded material or machinery or of any sort, including, house wrecking yards, used building material yards, structural steel material yards, except as a necessary accessory to an authorized principal manufacturing use of the lot. Automobile junk yards as defined in Section 136 of the General Municipal Law are also included within the meaning of this definition. Two or more abandoned, disabled, dismantled or partly dismantled, inoperable, or unregistered non-farm vehicles allowed to remain on a premises for a period of more than 30 days shall also constitute a junk yard. When located in an A District, the storage of agricultural equipment, machinery and vehicles intended for use on the premises shall not constitute a junk yard.

**KENNEL:** An establishment, with or without cages, dog runs or other appropriate structures, where more than four dogs over six months of age are harbored.

**LINE, STREET:** The dividing line between the street or road right-of-way and the lot. For the purposes of this Local Law, where the street line is not readily determinable, the center line of the improvement or of the traveled way shall be used to compute the location of the street line.

**LODGING HOUSE:** A multiple dwelling used primarily for the purpose of furnishing lodging, with or without meals, to 15 or less transient occupants for compensation.

**LOT:** A parcel or area of land, the dimensions and extent of which are determined by the latest official records or recordings.

**CORNER LOT:** A parcel of land at the junction of and fronting on two or more intersecting streets.

**THROUGH LOT:** An interior lot having frontage on two parallel or approximately parallel streets.

**LOT DEPTH:** The main distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines in the lot.

**LOT FRONTAGE:** The front of a lot shall be construed to be the portion nearest the highway. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to highways shall be considered frontage, and yards shall be provided as indicated under "YARDS" in these definitions.

**LOT, INTERIOR:** Any lot other than a corner lot.

**LOT AREA:** The total horizontal area included within lot lines expressed in terms of square feet or acres. Any portion of a lot included in a public street or road right of way shall not be included in calculating lot area.

**LOT COVERAGE:** The percentage of the area of the lot covered by a building or buildings.

**LOT LINE:** Any boundary line of a lot.

**LOT LINE, FRONT:** The street right-of-way line at the front of a lot.

**LOT LINE, REAR:** The lot line opposite to the front lot line.

**LOT WIDTH:** The width of the lot between side lot lines at the front building line as prescribed by the front yard regulations.

**MAJOR MODIFICATION OF PERSONAL WIRELESS TELECOMMUNICATIONS SERVICE FACILITY:** Modification of the height, silhouette and/or ground area of any telecommunications accessory structure, and/or the addition of telecommunications antennas of a new provider to an existing tower.

**MOBILE/MANUFACTURED/DOUBLEWIDE HOME:** A structure, transportable in one or more sections which, in the traveling mode, is eight body feet or more in width or forty body feet in length or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein.

**MOBILE HOME PARK; MOBILE HOME COURT:** Any site, lot, field, plot, parcel or tract of land on which two or more mobile homes are parked or located and for which use said premises are offered to the public or to any person for a fee of any type, including cost sharing, including the rental of premises and/or mobile homes.

**MOTEL:** A building or group of buildings, whether detached or in connected units, containing transient and/or permanent lodging facilities for the general public and which may contain accessory facilities such as restaurants, meeting rooms, retail business activities and related activities primarily to accommodate the occupants, but open to the general public. The term "motel" includes buildings designed as auto cabins, auto courts, motor lodges, tourist courts and similar terms, but shall not be construed to include parking areas for house trailers or mobile homes.

**MOTOR VEHICLE / HEAVY EQUIPMENT REPAIR SHOP:** A building or portion of a building arranged, intended or designed to be used for making repairs to motor vehicles or heavy equipment.

**MULTIPLE DWELLING:** See DWELLING, MULTIPLE FAMILY.

**NON-CONFORMING LOT:** A lot lawfully existing at the time of enactment of this Local Law, which does not conform to the area regulations established by this Local Law for the district or zone in which it is situated.

**NON-CONFORMING STRUCTURE:** A building or structure lawfully existing at the time of the enactment of this Local Law which does not conform to the area or dimensional regulations established by this Local Law for the district or zone in which it is situated.

**NON-CONFORMING USE:** A use of land or structure lawfully existing at the time of enactment of this Local Law which does not conform to the regulations established by this Local Law for the district or zone in which it is located.

**NON-NUISANCE INDUSTRY:** Any industry which is not detrimental to the environment in which it is located by reason of the emission of smoke, noise, odor, dust, vibration or excessive light, beyond the limits of its lot, or by reason of generating excessive traffic with attendant hazards, and which does not include any outdoor processing of materials, or open accessory storage yard unless completely enclosed by a solid wall or fence not less than six feet in height.

**NURSERY:** Premises, whether or not enclosed, used for the retail sale of nursery stock and materials and, incidental thereto, the retail sale of gardening implements, packaged fertilizer, packaged soil conditioners and additives, pesticides and other materials and supplies customarily used in the cultivation and maintenance of home garden or landscape.

**NURSERY SCHOOL:** A school operated on a regular basis to provide daytime instruction and care to four or more children under kindergarten age.

**PARKING SPACE:** Space available for the parking of one motor vehicle and having a width of at least 10' and a depth of at least 20' exclusive of passageways and driveways giving access thereto.

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

**PERMITTED USE (OR USE AS OF RIGHT):** A specific main use of a building, structure, lot or land, or part thereof, which this Local Law provides for in a particular district as a matter of right. Any use which is not listed as a permitted use, special use, or allowed as an accessory use shall be considered a prohibited use.

**PERSONAL WIRELESS TELECOMMUNICATIONS SERVICES:** Commercial mobile services, unlicensed wireless services and common carrier exchange access services.

**PERSONAL WIRELESS TELECOMMUNICATIONS SERVICE FACILITY:** Persons, firms or corporations supplying personal wireless telecommunications service, including all equipment, apparatus, facilities and devices used in the supplying of personal wireless telecommunications service.

**PIG FARM:** Pig farms involving the keeping or raising of more than twenty five (25) pigs.

**PLANNED COMMERCIAL-INDUSTRIAL PARK:** A development of land based on an overall development plan approved by the Zoning Board of Appeals in accordance with the special use procedure for commercial and industrial uses not permitted or allowed as of right. Such an overall development plan may provide for a variance of the dimensional regulations as provided in this Local Law.

**PLANNED RESIDENTIAL DEVELOPMENT:** A residential development of land based on an overall development plan approved by the Zoning Board of Appeals in accordance with the special use procedure of this Local Law in which the regulations of this Local Law and the type of housing may be varied as provided in this Local Law and where certain lands are set apart as permanent open space or common land.

**PROHIBITED USE:** A use of a building, structure, lot or land, or part thereof, which is not listed as a permitted or special use or allowed as an accessory use.

**PUBLIC AND SEMI-PUBLIC BUILDINGS AND GROUNDS:** The words "public and semi-public buildings and grounds" as used in this Local Law are intended to designate but are not limited to any one or more of the following uses, including grounds and accessory buildings necessary for their use:

1. Churches, places of worship, parish houses and convents.
2. Public parks, playgrounds and recreational areas when authorized or operated by a governmental authority.
3. State Licensed nursery schools, elementary schools, high schools, colleges or universities.
4. Golf courses and country clubs, but not including clubs whose activities include the maintenance, storage or takeoffs or landings of aircraft.
5. Public libraries and museums.
6. Not-for-profit fire, ambulance and public safety buildings.
7. Proprietary or not-for-profit hospitals for the care of human beings, nursing homes, convalescent homes, homes for adults, homes for the aged as the same are defined under the Public Health Law or the Social Services Law of the State of New York, provided that they are duly licensed by the State of New York.
8. Not-for-profit membership corporations established for cultural, social or recreational purposes.
9. Recreational facilities, either for profit or not-for-profit, such as for swimming, tennis, bowling, hockey, ice skating or other indoor or outdoor sports.

**RECREATION AREA:** Recreation area is the sum of all open areas and covered areas used for recreation purposes.

**RECREATIONAL CAMPING VEHICLE:** Any recreational trailer, camping trailer, mobile dwelling used for temporary living quarters while traveling or for recreation or vacations, or pick-up coach designed for mounting on a truck chassis used for temporary living quarters.

**RECREATIONAL TRAILER:** A vehicle built on a chassis designed to be towed and used as a temporary dwelling for travel, recreational and vacation uses.

**RESEARCH INSTITUTE OR LABORATORY:** A building for experimentation in pure or applied research, design, development and production of prototype machines or devices

or of new products, and uses accessory thereto; with respect to the application of this Local Law, such research institute or laboratory shall meet the standards of a non-nuisance industry.

**RESTAURANT:** Any establishment, however designated, where food and beverages, whether or not alcoholic, are sold to the public for consumption within an enclosed building or on the premises.

**RETAIL GASOLINE STATION OR OUTLET:** Any establishment that sells gasoline to the public. This includes service stations, convenience stores, car washes or any other facility that sells gasoline.

**RIGHT-OF-WAY (PRIVATE):** Right of ingress and egress over a particular parcel of privately owned property, which right does not inure to the benefit of the general public.

**RIGHT-OF-WAY (PUBLIC):** The area dedicated or reserved for travel and usage between the lines indicated by dedication, deed of record or as appearing on a duly adopted official map, such lines to be determined in the instance of any question by the Zoning Enforcement Officer.

**ROAD, MAJOR:** A through road, street or highway, or a street or highway connecting through roads with each other.

**ROAD, SECONDARY:** A street or highway other than a major road serving to connect major roads with each other or designed to handle internal movement within the community.

**ROAD, THROUGH:** A major traffic artery designed to move traffic in relatively large volumes and at relatively high speeds by the most direct practical route.

**ROAD, LOCAL:** A street which primarily functions to give direct access to abutting property. Local roads are the internal part of the system to provide vehicular movement within residential or other land use areas.

**ROADSIDE STAND:** A structure or vehicle used for the display and sale of merchandise including farm products which is maintained in a required yard area abutting a road.

**Permanent:** Roadside stand maintained on a permanent year round basis. **Seasonal:** Roadside stand which is to be removed from the required yard abutting a road during the months of December through February.

**SATELLITE PARABOLIC ANTENNAE:** Any dish-shaped accessory structure capable of receiving, for the benefit of the principal use, radio or television signals from a satellite in planetary orbit.

**SEASONAL ROADSIDE STAND:** See "Roadside Stand".

**SETBACK-FRONT:** The required open unoccupied space between the street line and the front of the main structure, including porches and similar structures, but not including entrance steps on the front of the main structure. (See BUILDING LINE)

**SETBACK-BACK:** The required open unoccupied space measured from the rear lot line to the nearest part of the main or accessory structure.

**SETBACK-SIDE:** The required open unoccupied space measured from the side lot lines to the nearest part of the main or accessory structure.

**SIGN:** Any device, structure or object for visual communication that is used for the purpose of bringing the subject thereof to the attention of others. Sign includes, by way of example and not by way of limitation, a billboard, signboard, pennant, and includes any text, symbol, lights, marks, letters or figures painted thereon or incorporated in the composition of an exterior surface of a building or structure.

**SIGN, BUSINESS:** A temporary or permanent sign which directs attention to a business or profession conducted upon the same property.

**SIGN, PROFESSIONAL OR ANNOUNCEMENT:** A temporary or permanent sign on the same property which directs attention to a resident's home, a home occupation, a home professional office or a public or semi-public building.

**SIGN, REAL ESTATE OR CONSTRUCTION:** A sign advertising land or improvements thereto or describing construction activity or a firm doing work related to construction on the premises on which the sign is located.

**SIGN, TEMPORARY:** A temporary sign which directs attention to a special activity or entertainment or one which indicates the location of a real estate subdivision or lot.

**SITE PLAN:** A plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, rights-of-way, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Planning Board.

**SITE PLAN REVIEW:** A review and approval process conducted by the Planning Board whereby Site Plans are reviewed.

**SOLAR ACCESS:** Space open to the sun and clear of overhangs or shade.

**SPECIAL USE:** A particular use which is specifically permitted in a given district only when the particular location is determined to be appropriate and when conditioning criteria enumerated or imposed by the Zoning Board of Appeals in this Local Law are met.

**STREET:** Any Federal, State, County or Municipal highway or road or any dedicated street shown upon a subdivision plat filed in the County Clerk's Office.

**STREET LINE:** The limit of the street width or highway right- of-way, whichever is greater.

**STRUCTURE:** Anything constructed or erected with a fixed location on or under the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, signs, billboards, and storage tanks.

**SUBSTANTIAL IMPROVEMENT:** Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred.

**TELECOMMUNICATIONS ACCESSORY STRUCTURE:** Accessory buildings and structures, including base stations, designed and used to shelter telecommunications equipment and/or to support personal wireless telecommunications facilities.

**TELECOMMUNICATIONS ANTENNA:** Antenna designed to transmit or receive communications as authorized by the Federal Communications Commission (FCC). Design examples of telecommunications antennae are described as follows: (a) whip; (b) panel; and (c) dish.

**TELECOMMUNICATIONS TOWER:** A tower greater than 35 feet in height and which does not exceed 300 feet in height (including antenna) and which supports communication (transmission or receiving) equipment. The term telecommunications tower shall not include amateur radio operators' equipment as licensed by the FCC. Design examples of telecommunications towers are described as follows: (a) self-supporting lattice; (b) guyed; and (c) monopole.

**TEMPORARY USE:** An activity conducted for no longer than a specified limited period of time. Examples of such uses are buildings incidental to new construction which are removed after the completion of the construction work.

**TOURIST HOME:** A dwelling in which overnight accommodations are provided for transient guests for compensation.

**TOWER:** Includes any tower, edifice, pole or other structure, whether attached to a building or freestanding and whether guyed or self-supporting, designed to be used as or the support of devices to be used for the transmission and/or reception of radio frequency signals, such as, but not limited to broadcast, short-wave, citizens band, FM or television signals.

**TRAVEL TRAILER; VACATION TRAILER:** "See RECREATIONAL TRAILER"

**TRAILER CAMPS:** A land area occupied or designed for occupancy by two or more tent trailers, camp cars and recreational vehicles in use for living purposes.

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

**VARIANCE:** A modification of the regulations of this Local Law, granted on grounds of practical difficulties or unnecessary hardship, pursuant to the Variance provisions of Article IX.

**VEHICLE:** Every device in, upon or by which any person or property is or may be transported or drawn upon a public street or highway.

**WALL:** A structure of wood, stone or other materials or combination thereof intended for security, screening or enclosure, or for the retention of earth, stone, fill or other materials as in the case of retaining walls or bulkheads.

**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:** The space within and extending the full width of the lot from the front lot line to the part of the principal building which is nearest to such front line, exclusive of steps.

**YARD, REAR:** An open space extended across the entire width of the lot between the rear wall of the principal building and the rear line of the lot, and unoccupied except for accessory building and open porches.

**YARD, SIDE:** An open space on the same lot with a principal building between the principal building and the side line of the lot extending through from the front yard to the rear yard into which space there shall be no extension of the building parts other than two feet for rain water leaders, window sills and other such fixtures and open steps.

ZONING CERTIFICATE OF OCCUPANCY: A certificate issued by the Zoning Enforcement Officer stating that a structure or the use thereof is in compliance with this Local Law.

ZONING ENFORCEMENT OFFICER: The official designated to administer and enforce this Local Law.

ZONING PERMIT: A document issued by the Zoning Enforcement Officer authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses in conformance with this Local Law.

### ARTICLE III

#### APPLICATION OF REGULATIONS

##### SECTION 300 DIMENSIONAL AND USE REGULATIONS

1. Except as hereinafter provided, no building, structure or land shall be used or occupied, and no building, structure or part thereof shall be erected, moved, altered or placed unless in conformity with the regulations for the district in which it is placed. The use of any building, structure, or land shall not be changed unless in conformity with the requirements in this ordinance.

2. No building or structure shall hereafter be erected or altered:

A. to exceed the height;

B. to accommodate or house a greater number of families;

C. to occupy a greater percent of the lot area;

D. to have a narrower or smaller front, side, and rear yard than specified herein for the district in which such building or use is located.

3. No part of a yard or other open space required about a building or structure for the purpose of complying with the provisions of this Local Law shall be included as part of a yard or other open space similarly required for another building or structure.

4. In a residential district, accessory buildings wholly or in part in side yards shall meet the same front and side yard requirements as are established for the principal building, except that accessory buildings entirely within a rear yard may be placed not less than **five (5) feet** from a side lot line or from a rear lot line.

5. For the purposes of this Local Law the required lot and yard dimensions shall mean the distance as measured from the highway right of way line.

6. Exceptions as to front yard requirements: Where there is an established building line, in that three or more buildings in the frontage 400 feet either side of the use in question are closer to the right-of-way, the minimum required setback may be reduced by the Zoning Enforcement Officer to not less than the average setback of such buildings.

7. When a lot in a LI, GI, or an A District abuts either:

A. A lot in an R District or MR District,

B. A lot in an abutting town or village which has in effect at the time of application for a building permit a zoning ordinance placing such lot in a district which the Zoning Enforcement Officer shall find is subject to regulations or other limitations substantially similar to, and not less restrictive than those applicable to the R District or

MR district under this ordinance, a buffer area abutting such other lot of not less than 15 feet shall be provided.

8. It shall be a violation of this Local Law to occupy any part of a cellar for sleeping purposes.

9. Every structure, including permanent mobile/manufactured/doublewide home installations, in any district, used as a dwelling shall have masonry or concrete foundations with footings not less than **forty two (42) inches** below the surface of the yard at the building lines. Footings and foundation walls shall be continuous for the outside perimeter of the structure. Mobile/manufactured/doublewide home installations shall also meet any additional foundation and anchorage requirements of the manufacturer.

10. It shall be unlawful, in any district, to maintain a landfill, other than such landfills as may be established by the Town of Royalton, for residents of the Town of Royalton, except that in the A District a private dump may be maintained for household and farm wastes originated on the premises. No dump shall be maintained within 100 feet of a property line or within 300 feet of a highway line. Dumps shall be so located so as not to pollute surface or ground water.

11. No horses shall be boarded, raised, stored or maintained on a lot of less than **five (5) acres**. Buildings for horses and the storage of manure shall not be less than **one hundred (100) feet** from all adjoining property lines.

#### SECTION 301 AREA OF LIVING SPACE

A permit shall not be issued for the construction, erection, or placing of a structure for use as a one family or a two family dwelling having less than **nine hundred (900) square feet** of habitable floor area for each dwelling unit. Habitable floor area shall not include areas used as garages, breezeways, carports, porches, cellars, furnace rooms, and similar types of use areas.

#### SECTION 305 SIGNS

Signs shall be permitted by the issuance of a building permit only according to standards listed below unless otherwise stated in this Local Law.

1. No sign shall contain or consist of lights which flash or move or appear to move.
2. No sign shall be higher than the principal building to which it is accessory unless a special use permit is received pursuant to the special use procedures set forth in this law.
3. No general advertising signs unrelated to the permitted use of the premises are allowed unless a special use permit is received. Any person desiring to place a sign on premises other than the site of the business advertised must apply for a special use permit from the Zoning Board of Appeals pursuant to the special use permit procedures set forth in this law.
4. No sign shall be erected on a public utility pole or traffic control structure.
5. Temporary unlighted signs erected by and for non-profit organizations such as churches, American Legions, Boy Scouts, political organizations, advertising suppers, banquets, benefits and fund raising sales and temporary political campaign signs may be erected for no longer than a 40 day period without permit in any district, provided that the

sign will not constitute a traffic hazard and shall be removed within 48 hours after the advertised event or election.

6. In a B district, one on premises sign not to exceed one hundred (100) square feet in area and fifteen (15) feet in length is allowed.

7. Sign, Real Estate For Sale Signs; - one on premises sign not to exceed nine (9) square feet in area is allowed.

8. Signs in the A district advertising the sale of homegrown agricultural products raised on the premises are permitted; provided however that the produce sign(s) shall not exceed thirty two (32) square feet in area in total accumulation of all signs.

9. One sign for public and semi-public buildings and grounds is permitted; provided however that these signs shall not exceed twenty four (24) square feet in area.

SECTION 306 TEMPORARY USES The following uses are permitted in the following districts as temporary uses subject to the conditions stated.

1. Contractor's sheds - in any district: Contractors' buildings, trailers, or sheds may be erected on a construction site to serve as office, workshop, or storage area during the construction of any authorized structure following the issuance of a building permit. Such buildings shall not remain longer than eighteen months unless a Special Use Permit for a longer period is granted by the Zoning Board of Appeals in accordance with the provisions of this local law. They may not be used as a residence except as the quarters of a watchman.

2. Construction Signs - in any district: Signs bearing information as to the nature of a building being erected or altered and the names of contractors, architects, engineers and artisans engaged in the construction, may be erected at the site of any authorized construction project during the period of construction only. Such signs shall be grouped on a single panel not exceeding 120 square feet in area.

3. Fairs and carnivals: An out-of-door fair, carnival or similar event may be conducted by a church, civic organization or similar non-profit group on the premises of a building owned by such organization, or on a lot in a B, or LI district, for a period not exceeding four days in any calendar year; or in any district subject to the granting of a Special Use Permit therefor by the Zoning Board of Appeals in accordance with the provisions of this local law.

4. Temporary Use of Mobile Home: A mobile home may be placed on a premises for use as a temporary dwelling when a building permit has been issued for the construction of a dwelling upon such premises. Such mobile home shall be removed from the premises when the dwelling has been completed for occupancy or upon expiration of the building permit.

## SECTION 310 PARKING

Minimum standards supplementary to the basic standards cited elsewhere in this Local Law are as follows:

1. One parking space for every three seats in a public meeting place.

2. One parking space for each employee on the maximum working shift in an industrial or light industrial establishment and one parking space per 250 square feet of gross floor area in a commercial establishment unless otherwise specified herein.

3. One parking space for every 200 square feet of gross floor area in a business or professional office.

4. One parking space for every 100 square feet of gross floor area in supermarkets and self-service food stores.

#### SECTION 311 OFF-STREET LOADING

1. At least one off-street loading area shall be provided for each commercial or industrial establishment hereafter erected or altered to have a gross area in excess of 5000 square feet.

2. Space for off-street loading shall be in addition to space for off-street parking.

3. Each berth shall be not less than twelve (12) feet wide by thirty (30) feet long.

#### SECTION 315 FENCES

Fences erected in the Town shall adhere to the following, unless otherwise specified in this Local Law:

1. Fences may be erected, altered or reconstructed to a height of six (6) feet for residential uses and ten (10) feet for non-residential uses.

2. Fences may be substituted for lot line landscaping during Site Plan Review in the discretion of the Planning Board.

3. No fence shall cause obstruction to vision at street intersections nor shall any fence be constructed on a highway right-of-way line.

4. Farm fencing shall be exempt from these provisions.

#### SECTION 320 PONDS

1. All ponds (farm and other types), except for retention ponds approved by the Building Inspector or Planning Board, will require a special use permit.

2. Boundaries. All ponds must be a minimum of two hundred (200) feet from all street rights-of-way and one hundred (100) feet from all property lines and shall not be excavated on a lot of less than five (5) acres.

3. The Zoning Board of Appeals shall determine the pond size, depth, and configuration.

#### SECTION 325 CAMPING TRAILERS; RECREATIONAL VEHICLES

Camping trailers shall not be occupied on an overnight basis except at an approved camping ground or, with the consent of the owner, for a period not to exceed fourteen consecutive days on private land provided all health standards are met.

## SECTION 330 NON-CONFORMING USES, LOTS, STRUCTURES

Lots, structures, uses of land and structures and characteristics of use which lawfully existed at the time of the enactment of this Local Law and which would be prohibited or restricted under the terms of these regulations may be continued subject to the following provisions:

1. Intent - Except as provided in subsection 11 below, it is the intent of this Local Law to permit non-conforming uses to continue until they are removed, but not to encourage their survival. The Zoning Board of Appeals may also allow a change in use from a non-conforming use to another non-conforming use so long as it is not more intensive of a use.

2. Enlargement - Non-conforming uses shall not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption of this Local Law unless the Zoning Board of Appeals determines after public hearing that such extension will not adversely affect the surrounding community. The Zoning Board of Appeals may impose safeguards and conditions on any authorized extension so as to conform as nearly as practicable to the requirements of the district in which the building or use is located.

3. Unsafe Structures - Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition.

4. Alterations - A non-conforming structure may not be reconstructed or structurally altered to an extent exceeding in aggregate cost 50 percent of the full value of said structure, unless the structure shall be changed to a conforming use.

5. Restoration and Repair - Nothing in this local law shall prevent the restoration of a building destroyed by fire, explosion, act of God or act of public enemy subsequent to the enactment of this local law, or shall prevent the continuance of such use as it existed at the time of the destruction of such building or part thereof, provided such restoration is commenced within one year after the destruction or loss, and is completed within a reasonable time thereafter. Similarly, nothing in this local law shall prevent the strengthening or restoring to a safe condition of any portion of a structure declared unsafe by a public official having cognizance thereof.

6. Discontinuance - Whenever a non-conforming use has been discontinued for a period of one (1) year, the use shall not thereafter be re-established and any future use shall be in conformity with the provisions of this Local Law.

7. Changes - Once changed to a conforming use, no structure or land so changed shall be permitted to revert to a non-conforming use.

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

9. Moving - Should any structure be moved for any reason for any distance, it shall thereafter conform to the requirements for the district in which it is located after it is moved.

10. Existing Undersized Lots of Record:

A. Any recorded lot held in single and separate ownership prior to the adoption of this Local Law and whose area and/or width and/or depth are less than minimum requirements specified herein for the district, may be considered as complying with this Local Law and no variance therefor shall be required, provided that:

(i) Such lot does not adjoin any other lot or lots held by the same owner, the aggregate area of which lots is equal to or greater than the minimum lot area required for that district;

(ii) The minimum yard requirements set by this Local Law are met;

(iii) The lot complied or was considered as complying with the Zoning Regulations in effect prior to the effective date of this Local Law.

11. Compulsory Termination - Notwithstanding the above, a non-conforming structure or non-conforming use may be subject to compulsory termination by the Town Board when it is found detrimental to the conservation of the value of surrounding land and improvements, or to future development of surrounding lands and, therefore, is tending to deteriorate or blight the neighborhood. In ordering the compulsory termination of a non-conforming structure or non-conforming use, the Town Board shall establish a definite and reasonable amortization period during which the non-conforming use may continue while the investment value remaining after the date of the termination order is amortized. Determination of the amount to be amortized shall be based on the value and condition of the land and improvements for the non-conforming use less their value and condition for a conforming use, and such other reasonable costs as the termination may cause. The rate of amortization shall be in accordance with reasonable economic practice.

## SECTION 335 SLOPE OF YARDS

The finished grade of the front yard at the front foundation wall of a dwelling shall be at least one (1) foot above the elevation of the center line of the traveled way of the street or highway measured at midpoint between the sidelines of the lot. Where unnecessary hardship is proven, due to topographic conditions, the Zoning Board of Appeals without public hearing may vary the finished grade requirements.

## SECTION 340 ALTERNATE ENERGY SYSTEMS

This section is intended to provide for solar and wind energy access for private use so far as conditions permit and to reduce adverse impacts on neighboring property owners.

1. Each wind energy tower shall be located on the ground to allow an open zone around the tower on the owner's property with a radius at least equal to the height of the tower.

2. Energy collection and storage facilities and all appurtenant electrical equipment shall cause no undue interference, noise or glare.

3. Windmill blades shall clear the ground at their lowest point by at least ten (10) feet.

4. Height Exemption: The height limitations of this Local Law shall not apply to wind energy towers or solar collectors erected for private use, provided that such structures are erected only to such height as is necessary to accomplish the purpose for which they are intended, and that such structures do not obstruct solar access to neighboring properties.

## SECTION 341 TELECOMMUNICATIONS TOWERS

A. No person, firm or corporation being the owner or occupant of land within the Town of Royalton shall use or permit the use of said land for the construction of a tower, other than wind energy tower erected for private use, without obtaining a Special Use Permit and Building Permit.

B. Special exemption from Special Use Permit requirements:

1. Pre-existing towers which conform to and meet the requirements of this subsection.
2. Towers used for normal household television, radio and other similar signal broadcast or reception.
3. Pre-existing towers which do not conform shall be granted a non-transferable permit.

## SECTION 342 PERSONAL WIRELESS TELECOMMUNICATIONS SERVICE FACILITIES

A. The placement, construction, and major modification of all personal wireless telecommunications facilities within the boundaries of the Town of Royalton shall be permitted only by special use permit, upon site plan approval issued by the Zoning Board of Appeals herein and issuance of a building permit, and subject to all the provisions of this Section and all other applicable regulations.

B. All new telecommunications antennas which are not attached to telecommunications towers shall comply with the provisions of this Section.

C. All telecommunications towers existing on May 12, 1997, shall be allowed to continue their usage as they presently exist and additional new telecommunications antennas shall be permitted thereon without regard to the zoning district in which the tower is located. New construction other than routine maintenance on an existing telecommunications tower shall comply with the requirements of this Section.

D. Applications under this section shall be made as follows:

i. Co-location. New telecommunications facilities shall be sited on existing telecommunications facilities or in areas already in use for telecommunications and/or utility distribution lines in order to preserve the aesthetic and scenic value of the Town unless the applicant demonstrates co-location is not feasible.

ii. Applicants for a special use permit to place, construct or modify personal wireless telecommunications facilities within the Town of Royalton shall submit the following information to the Zoning Board of Appeals for referral to a professional engineer of consultant for review and recommendation:

(1) Visual Environmental Assessment Form (Visual EAF). Landscaping Plan and Visual Assessment Report including appropriate models and photography assessing the visibility from key viewpoints identified in the Visual EAF, existing tree lines, and proposed elevations.

(2) Preliminary Report describing:

- (i) feasibility of co-location on existing structures and telecommunications facilities,
- (ii) applicant's full map and grid coverage in the Town, (iii) surrounding topography and

relation to line of sight transmission, (iv) available road access, electric power and land-based telephone lines and/or microwave link capability, (v) required improvements or construction activities, including those within the public right-of-way or lands owned or controlled by the Town of Royalton, (vi) identity of location, ownership and usage of currently existing telecommunications facilities within the Town, (vii) plans for construction of telecommunications accessory equipment building or structure and landscaping plan, (viii) proposed mitigation measures for visual impacts, (ix) proposed safety measures, and (x) compatibility with existing telecommunications networks, NYS Thruway Authority telecommunications network and public safety and emergency networks, such as fire, ambulance, police and 911.

(3) In the case of an application for a telecommunications tower, additional information shall be provided describing: the telecommunications tower height and design, including a cross section of the structure; the telecommunications tower's compliance with applicable structural standards; the telecommunications tower's capacity, including the number and type of telecommunications antennas it can accommodate and the basis of calculation of capacity.

(4) In the case of a telecommunications antenna mounted on an existing structure, additional information shall be provided indicating: the existing structure's suitability to accept the telecommunications antenna; the proposed method of affixing the telecommunications antenna to the structure; and complete details of all fixtures and couplings, and the precise point of attachment shall be indicated.

(5) Filing of Certificate of Public Convenience and necessity in this geographic area, from New York State Public Service Commission for applicant with the Town.

(6) Demonstrate that the proposed site is the most appropriate available site within the immediate area for the location of the cellular telephone facility.

(7) Inventory of Existing Telecommunications Facilities within the Town outlining opportunities for shared use as an alternative to the proposed use. The applicant must demonstrate that the proposed telecommunications antenna cannot be accommodated on an existing approved telecommunications tower or facility.

(8) Filing map with Town showing all of applicant's proposed facilities within the geographic area covered by the Certificate of Public Convenience and Necessity.

(9) Proof of certified mail announcements to all other telecommunications providers in the area declaring the applicant's sharing capabilities and/or siting needs.

(10) A map showing the location of the premises for which the permit is sought and sketch plan showing all features of the facility necessary for providing road access, electrical service, land based telephone line connection and/or microwave link capability within the property boundaries of the proposed location.

(11) In the case of an application for a telecommunications antenna or tower to be located on private lands owned by a party other than the applicant or the Town, a copy of the lease agreement, without requiring the amount of rent, with the property owner shall be provided to the Zoning Board of Appeals.

(12) Such other information as may be required by the Zoning Board of Appeals or its engineer.

(13) All plans or specifications required by the State Education Law to be prepared by or under supervision of a Professional Engineer (PE), surveyor or architect shall be stamped and signed by such licensee.

E. Special use permits issued for Personal Wireless Telecommunications Service Facilities shall be subject to the following general conditions:

(1) Separation distance. Telecommunications facilities shall be separated from all residential dwellings by a distance of 250 feet or one and one-half times the height of the tower, whichever is greater.

(2) All telecommunications accessory structures shall comply with zoning setback regulations in the affected zone. In any event, a telecommunications tower shall be set back a distance at least equal to its height. Additional setbacks may be required by the Zoning Board of Appeals in order to provide for public safety.

(3) Minimal visual impacts. All telecommunications towers and telecommunications antennas shall be sited to have the least possible practical visual effect on the environment.

(4) Lighting. Telecommunications towers and telecommunications antennas shall be of a galvanized finish, or painted gray above the surrounding tree line, and gray or green below the tree line; the mountings of telecommunications antennas shall be nonreflective and of the appropriate color to blend with their backgrounds, unless otherwise required by the FAA.

(6) Screening.

(a) Screening may be required by the Zoning Board of Appeals to screen portions of the telecommunications tower and tower base from nearby residential property or important views.

(b) Architectural character. Design measures shall be used to integrate the facilities with existing buildings in the area.

(7) Height. The size of telecommunications sites shall be limited to the minimum required to provide proposed telecommunications services but shall include consideration of height needed for co-location.

(8) Access roads. Existing roadways shall be used for access to the site whenever possible.

(9) Telecommunications accessory structures. Telecommunications support facilities such as vaults and equipment rooms, utilities and other support structures shall be screened, placed underground, depressed, earth bermed or sited below the ridgeline to the greatest extent feasible particularly in areas of high visibility.

(10) Telecommunications antennas. Due to their high visibility, dish and parabolic telecommunications antennas shall be located at as low an elevation as possible without compromising the function of the device, preferably on the sides of buildings or ground mounted on slopes below the ridgeline wherever possible, rather than elevated on telecommunications towers. Microwave and satellite dishes shall be of mesh construction whenever possible.

(11) Utility service. At the discretion of the board, electrical and land based telephone utilities, extended to serve telecommunications sites shall be underground on the applicant's property.

(12) Security provisions. Each site shall have a security program including physical features such as fencing, anti-climbing devices or elevating ladders on the telecommunications towers and/or monitoring either by staff or electronic devices, to

prevent unauthorized access and vandalism.

(13) Safe zone. Telecommunications towers shall be designed so that in the event of failure they will fall within the setback area of the site and/or away from adjacent development.

(14) Noise. Noise producing equipment shall be sited and/or insulated to minimize noise impacts on adjacent properties.

(15) Annual inspection and report. Unless waived by the Board, Telecommunications towers over 100' in height, including towers existing on the effective date hereof shall be inspected annually by a licensed professional engineer or at any other time upon a determination by the town's building inspector that the telecommunications tower may have sustained structural damage, and a copy of the inspection report submitted to the building inspector.

(16) Removal. All Telecommunications facilities, including but not limited to antennas, towers and accessory structures, shall be dismantled and removed from the site when they have been inoperative, abandoned or had its special use permit revoked, for six months. Applicants shall post a bond or other suitable undertaking as a condition of the special use permit in order to guarantee removal of abandoned structures.

(17) Post-installation field report. A post-installation field report identifying the facility's coverage area, the telecommunications tower's maximum capacity, committed capacity and unused capacity, if any, and co-located users of the telecommunications tower shall be submitted to the Town.

(18) Proof of insurance. The applicant shall annually provide the Town Clerk with proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with construction and operation thereof.

(19) Special Use Permit Term. Special use permits granted pursuant to this section shall be issued for a term of one year. Permits may be renewed yearly, without the need of a public hearing.

(20) To the extent, determined by the Board, the applicant shall provide for the placement of antennas and other telecommunication devices on its facilities for public safety organizations.

(21) Applicant shall pay the costs of the Town's engineers and attorneys for time spent reviewing and analyzing the application.

F. The Zoning Board of Appeals may grant the special use permit, deny the special use permit or grant the special use permit with written stated conditions. Denial of the special use permit shall be by written decision based upon substantial evidence submitted to the Board.

G. The special use permit shall not be assignable or transferable.

## SECTION 350 HOME OCCUPATIONS

1. No person other than a member or members of the family residing on the premises shall be engaged in such occupation.

2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty five (25) percent of the floor area of the principal building shall be used in the conduct of the home occupation.

3. A home occupation shall not be interpreted to include the following: commercial stables and kennels, restaurants, musical and dancing instructions to groups exceeding four (4) pupils, convalescent homes, mortuary establishments, garages or shops for the repair of motor vehicles, antique dealerships.

4. Direct retail sales of products or merchandise, not made at home by the owner, is prohibited.

5. There shall be no outdoor storage or display of materials, goods, supplies or equipment related to the operation of the home occupation.

6. Vehicular traffic flow and parking shall be increased by such occupation by no more than one additional vehicle at a time; sufficient off-street parking shall be provided for such additional vehicles elsewhere than in any required front yard.

7. The appearance of the structure(s) utilized for the home occupation shall not be changed in any way that would cause the premises to differ from its residential character.

8. The occupational use shall not generate traffic, parking, noise, vibration, glare, fumes, odors or electrical interference beyond what normally occurs in the zoning district and surrounding area where the use is located.

9. One nameplate not to exceed one (1) square foot in area and attached to the structure, shall be allowed to display the name of the occupant and/or the name of the home occupation.

10. No more than one (1) commercial vehicle utilized by the home occupation may be parked at the premises on a regular basis.

## SECTION 360 SATELLITE PARABOLIC ANTENNAE

A. Unless special circumstances exist which make the following standards impractical or unreasonable, the following restrictions, applicable to satellite parabolic antennae greater than three feet in diameter, are deemed necessary to provide the minimum level of control necessary for the health, safety and aesthetic objectives of the Town.

1. All parabolic antennae shall be located on the ground at natural grade and shall not be installed on or above any buildings.

2. All parabolic antennae shall be located in rear yards, except that they may be placed in front yards when a two (200) foot setback from the front lot line can be obtained.

3. No more than one (1) parabolic antennae shall be allowed per lot.

4. The parabolic antennae shall be screened to the extent reasonably practicable from the view of adjoining property owners.

B. The Zoning Board of Appeals may, after public hearing, modify the above requirements when circumstances and conditions of a particular lot make such standards impractical or unreasonable.

## SECTION 365 SEASONAL ROADSIDE STANDS

Temporary seasonal roadside stands to be used exclusively for the sale of fruits, vegetables and other garden products grown upon the property may be erected, used

and maintained by the owner or lessee of such property, provided that such stands shall be located outside the highway right-of-way and at least twenty (20) feet from the paved portion of the highway and further provided that the sale of such agricultural products shall be conducted in an orderly, sightly and sanitary manner by the owner or lessee of such property or his employees.

## ARTICLE IV

### ESTABLISHMENT OF ZONES

#### SECTION 400 ZONE DISTRICTS

For the purposes of this Local Law, the Town of Royalton is hereby divided into the following six districts, which are referred to in this Local Law by the abbreviations indicated :

- Agricultural District **(A)** See section 500
- One and Two Family Residential **(R)** See section 510  
District
- Multiple Residence District **(MR)** See section 520
- Business District **(B)** See section 530
- Light Industrial **(LI)** See section 550
- General Industrial **(GI)** See section 560

#### SECTION 401 ZONING MAP

Said districts are bounded as shown on the map entitled "Zoning Map of the Town of Royalton" which map accompanies and hereby is declared to be a part of this Local Law.

#### SECTION 402 DESIGNATION OF DISTRICT BOUNDARIES

Unless otherwise indicated on the Zoning Map, the district boundary lines are intended generally to follow the center lines of streets and roads, the center lines of railroad rights-of-way, existing lot lines, the mean water level of streams and other waterways, other similar right-of- way lines, boundaries of subdivisions, or municipal boundary lines, all as shown on the Zoning Map.

#### SECTION 403 DETERMINATION OF LOCATION OF BOUNDARIES

When the location of a district boundary line cannot be otherwise determined, determination thereof shall be made in the first instance by the Zoning Enforcement Officer by scaling the distance on the Zoning Map from a line of known location to such district boundary line. In case there is still uncertainty as to the true location of a district boundary line in a particular instance, the Zoning Enforcement Officer shall request the Zoning Board of Appeals to render its determination.

## **ARTICLE V**

### **DISTRICT REGULATIONS**

#### **SECTION 500 AGRICULTURAL DISTRICT (A)**

##### **SECTION 501 PURPOSE**

The Agricultural District is primarily for agricultural and rural-residential uses, including such non-farm residential, commercial and agri-industrial uses not deemed to be incompatible with the rural nature of the neighborhood.

##### **SECTION 502 PERMITTED USES - AGRICULTURAL DISTRICT**

One and two family dwellings, accessory apartments, and Agriculture and Customary agricultural operations and uses, subject to the following restrictions:

A. No building in which animals are kept shall be closer than 100 feet to any adjoining lot line.

B. No storage of manure or odor or dust-producing substance or use shall be permitted within 100 feet of any adjoining lot line.

C. No greenhouse heating plant shall be operated within 50 feet of any adjoining lot line.

##### **SECTION 503 PERMITTED ACCESSORY USES**

Uses and structures customarily incidental to permitted uses and structures. Accessory uses in conjunction with a farming or gardening operation may include the keeping of accessory farm implements, equipment and vehicles and the sale on the premises or on other farms within the Town providing that no permanent non-seasonal structure for the sale of farm products shall be erected, operated or maintained in any required yard abutting a road except upon the issuance of a special use permit by the Zoning Board of Appeals. Accessory uses including seasonal roadside stands are not to be used on a non-farm, commercial basis.

##### **SECTION 504 USES REQUIRING A SPECIAL USE PERMIT (SUBJECT TO SPECIAL USE PERMIT REGULATIONS AND PROCEDURES)**

Accessory Apartment (Separate Building)

Agribusiness

Airports

Animal Hospitals

Animal Husbandry involving the housing of animals or storage of odor or dust producing substances less than 100 feet from a lot line when adjoining area is unimproved.

Bed-And-Breakfast Establishment  
 Campgrounds; Seasonal Tent, Trailer Or Recreational Vehicle Camp  
 Cemeteries  
 Clubs  
 Day Care Centers  
 Essential Services  
 Farm Labor Camps  
 Fur Farms  
 Golf Course  
 Home Business  
 Home Occupation  
 Home Professional Offices  
 Industrial Agricultural Enterprise  
 Industrialized Poultry Farm  
 Kennels  
 Livery and Commercial Stable (25 or more horses)  
 Mobile Home Parks  
 Mobile homes on a farm premises of less than 50 acres when occupied by residents  
 whose prime employment is on the premises, and their families.  
 Motor Vehicle/Heavy Equipment Repair Shops  
 Multiple Family Dwellings  
 Permanent Roadside Stands  
 Pig Farms  
 Public and Semi-Public Buildings and Grounds  
 Public Utilities; Public Utility Substations  
 Shop for Custom work

Other uses which in the opinion of the Zoning Board of Appeals are similar in nature to the above listed uses.

#### SECTION 505 SPECIFICATIONS

Setbacks - Front: 50 feet; Side: 10 feet; and Rear: 35 feet; Frontage: 150 feet; Depth: 300 feet; Height: 35 feet (except agricultural storage facilities, airport structures and private alternate energy towers);

Minimum Lot Size: 45,000 square feet. Maximum lot coverage for dwelling and accessory structures shall not exceed thirty five (35) percent of the lot area. Corner lots: structures and uses shall have a set back from the adjacent highway right-of-way line of not less than 25 feet. There shall be but one dwelling on any single lot.

#### SECTION 510 ONE AND TWO FAMILY RESIDENTIAL DISTRICT (R)

#### SECTION 511 PURPOSE

The purpose of the One and Two Family Residential Districts is to provide a stable environment for one and two family rural-residential development free from incompatible

uses. The districts are either served by public water or are in an area where densities are high enough to support public water if growth is likely or encouraged.

#### SECTION 512 PERMITTED USES - ONE AND TWO FAMILY RESIDENTIAL DISTRICTS

Accessory Apartment  
Single Family Dwellings  
Two Family Dwellings  
Family Day Care Home  
Gardening and customary agricultural uses other than animal husbandry, subject to the restrictions stated in Section 502.  
Home Occupations

#### SECTION 513 PERMITTED ACCESSORY USES

Uses and structures customarily incidental to permitted uses and structures. Accessory uses are not to be used on a commercial basis.

#### SECTION 514 USES REQUIRING A SPECIAL USE PERMIT (SUBJECT TO SPECIAL USE PERMIT REGULATIONS AND PROCEDURES)

Accessory Apartment (Separate Building)  
Animal Husbandry  
Bed-And-Breakfast Establishment  
Cemeteries  
Clubs  
Day Care Centers  
Essential Services  
Golf Course  
Home Business  
Home Professional Offices  
Kennels  
Multiple Family Dwellings  
Planned Residential Development  
Public and Semi-Public Buildings and Grounds  
Public Utilities  
Permanent Roadside Stands  
Seasonal Roadside Stand  
Shops for Custom work  
Motor Vehicle/Heavy Equipment Repair Shops  
Other uses which in the opinion of the Zoning Board of Appeals are similar in nature to the above listed uses.

## SECTION 515 SPECIFICATIONS

Setbacks - Front: 50 feet; Side: 10 feet; and Rear: 35 feet; Frontage: 150 feet; Depth: 300 feet; Height: 35 feet; Minimum Lot Size: 45,000 square feet, except that an authorized use situated in a sewer and water district and connected to public water and sewer services may be established on a lot having an area of not less than 15,000 square feet and a width of not less than 100 feet. On such lots there shall be a front yard of not less than 30 feet and two side yards, one of which shall not be less than 5 feet in width and the other side yard of not less than 10 feet in width and a rear yard of not less than 25 feet in depth. Maximum lot coverage for dwelling and accessory structures shall not exceed thirty five (35) percent of the lot area. Corner lots: structures and uses shall have a setback from the adjacent highway right-of-way line of not less than 25 feet. There shall be but one dwelling on any single lot.

## SECTION 520 **MULTIPLE FAMILY RESIDENTIAL DISTRICT (MR)**

### SECTION 521 PURPOSE

The purpose of the Multiple Family Residential District is to provide an environment for multiple dwelling development. Uses in this district are either served by public water and public sewer or are in areas with densities high enough to support such facilities if growth is likely or encouraged.

### SECTION 522 PERMITTED USES-MULTIPLE FAMILY RESIDENTIAL DISTRICT

- One Family Dwellings
- Two Family Dwellings
- Multiple Family Dwellings
- Family Day Care Homes
- Gardening and customary agricultural uses other than animal husbandry.
- Home Occupations
- Rooming Houses; Lodging Houses

### SECTION 523 PERMITTED ACCESSORY USES

Uses and structures customarily incidental to permitted uses and structures. Accessory uses are not to be used on a commercial basis.

### SECTION 524 USES REQUIRING A SPECIAL USE PERMIT (SUBJECT TO SPECIAL USE PERMIT REGULATIONS AND PROCEDURES)

Animal Husbandry  
Bed-And-Breakfast Establishment  
Clubs  
Day Care Centers  
Essential Services  
Home Business  
Home Professional Offices  
Planned Residential Development  
Public and Semi-Public Buildings and Grounds  
Public Utilities  
Shops for Custom work  
Other uses which in the opinion of the Zoning Board of Appeals are similar in nature to the above listed uses.

#### SECTION 525 SPECIFICATIONS

Setbacks - Front: 50 feet; Side: 10 feet (except for multiple dwellings) Rear: 40 feet, except for single and two family dwellings on a lot in a water and sewer district when connected to public water and sewer services in which case the front yard setback shall be 30 feet, one side yard of 5 feet and the other of 10 feet, and a rear yard setback of 25 feet. Corner lots: structures and uses shall have a setback from the adjacent highway right-of-way line of not less than 25 feet.

Minimum Lot Size: 45,000 square feet; Frontage: 150 feet, except that a one or two family dwelling situated in a water and sewer district and connected to public water and sewer services may be established on a lot having an area of not less than 15,000 square feet and a width of not less than 100 feet. Maximum lot coverage for dwelling and accessory structures shall not exceed thirty five (35) percent of the lot area.

#### SECTION 526 OTHER PROVISIONS AND REQUIREMENTS FOR MULTIPLE DWELLINGS

1. The maximum gross density shall not exceed eight (8) units per acre.
2. Minimum gross floor area requirements:
  - A. Town house units, two (2) bedrooms or less: 850 square feet.
  - B. Town house unit, three (3) bedrooms or more: 1000 square feet.
  - C. Apartment unit, efficiency: 550 square feet.
  - D. Apartment unit, one bedroom: 675 square feet.
  - E. Apartment unit, two (2) bedrooms: 800 square feet.
  - F. Apartment unit, three (3) bedrooms: 950 square feet.
  - G. No more than 20 percent of the total units within a multiple family dwelling development shall be three (3) or more bedrooms units.
3. All stairways to the second floor or higher shall be located inside the building.
4. Access to public road:

A. All multiple family dwelling developments must have direct access to a public road.

B. If there are more than 12 dwelling units in a multiple family dwelling development, direct access must be provided to a public road by a private driveway or a road dedicated to the Town by the developer.

C. If there are more than 50 dwelling units in a multiple family development, or if in the opinion of the Planning Board the location of topography of the site indicates the need for additional access, the Planning Board may require such additional access as a condition of site plan approval.

5. Side and Rear yard setbacks for Multiple Family Dwellings shall be at least 40 feet.

6. Minimum distance between buildings in a Multiple Family Dwelling Development shall be 20 feet.

7. Off-Street parking shall be provided in the amount of two (2) spaces for each unit.

8. The aggregate lot coverage of multiple family dwelling developments shall not exceed 60 percent of the total lot area.

9. Plans submitted for site plan approval shall include at a minimum: sewage disposal, water supply, storm drainage, parking, garbage disposal, landscaping and lighting.

## SECTION 530 **BUSINESS DISTRICT (B)**

### SECTION 531 PURPOSE

The purpose of the Business Districts is to provide business establishments servicing the needs of area residents and visitors, especially in the nature of retail and service businesses. Permitted uses are intended to create a business district free from conflicting land uses.

### SECTION 532 PERMITTED USES-BUSINESS DISTRICT

Business services including warehousing and storage, general business, service business, restaurants, taverns, professional offices, retail and wholesale businesses not listed in section 534. Also the following uses are permitted:

- Animal Hospitals
- Automobile Sales
- Convenience Businesses; Mini-Marts
- Family Day Care Homes
- Home Business
- Home Occupations
- Home Professional Offices
- Motor Vehicle/Heavy Equipment Repair Shops
- Nursing Homes
- Retail Gasoline Station or Outlet
- Shops for Custom Work

Other uses which in the opinion of the Zoning Board of Appeals are similar in nature to the above listed uses.

## SECTION 533 PERMITTED ACCESSORY USES

Uses and structures customarily incidental to permitted uses and structures. Private garage space for the storage of commercial vehicles used in conjunction with a permitted business use.

Off-street parking, loading and unloading facilities subject to the provisions of Article 3 of this Local Law.

## SECTION 534 USES REQUIRING A SPECIAL USE PERMIT (SUBJECT TO SPECIAL USE PERMIT REGULATIONS AND PROCEDURES)

Agribusiness  
Amusement Centers  
Animal Husbandry  
Automobile Laundry  
Bed-And-Breakfast Establishment  
Clubs  
Day Care Centers and Nursery Schools  
Essential Services  
Lodging House; Rooming Houses  
Motels and Hotels  
Multiple Family Dwellings  
Public and Semi-Public Buildings and Grounds  
Public Utilities

Other uses which in the opinion of the Zoning Board of Appeals are similar in nature to the above listed uses.

## SECTION 535 SPECIFICATIONS

Setbacks - Front: 50 feet; Side: 15 feet; and Rear: 20 feet; Frontage: 150 feet; Depth: 300 feet; Height: 35 feet; Minimum Lot Size: 45,000 square feet, except that an authorized use situated in a sewer and water district and connected to public water and sewer services may be established on a lot having an area of not less than 15,000 square feet and a width of not less than 100 feet. Maximum lot coverage for a principal building and accessory structures shall not exceed thirty five (35) percent of the lot area.

## SECTION 536 OTHER PROVISIONS AND REQUIREMENTS: SITE PLAN

No commercial structure or use shall be permitted within 50 feet of the nearest lot line of any residential district. Planning Board site plan review of Business permitted and special uses, prior to issuance of a building permit or any change in use of the premises, is required.

## SECTION 550 LIGHT INDUSTRIAL DISTRICT (LI)

### SECTION 551 PURPOSE

The purpose of the Light Industrial District is to provide for light manufacturing, assembly and storage facilities as well as research and development activities and offices which will not in any manner interfere with nearby uses.

### SECTION 552 PERMITTED USES

1. All those uses permitted as of right in the Business District subject to the regulations applicable to the B district.
2. Research institutes and laboratories
3. Scientific research or experimental development of materials, methods or products, including engineering and agricultural research, processing and fabrication incidental thereto.
4. Manufacture or assembly of electric, electronic or optical instruments or devices.
5. Light manufacturing, assembling, fabricating or packaging of products from previously prepared materials.
6. Precision machinery; tool and die work.
7. Office buildings for executive engineering and administrative purposes.
8. Farm and garden implement stores.
9. Truck garden nursery; farm produce sales.
10. Administrative, educational and other related activities and facilities in conjunction with a permitted use.
11. Other non-nuisance uses which, in the opinion of the Zoning Board of Appeals, are similar in nature and scale to those permitted above.

### SECTION 553 PERMITTED ACCESSORY USES

1. Signs shall be permitted for advertising industrial activities on the premises which shall not exceed, in aggregate, fifteen (15) percent of the area of the front facade of the building. Such signs may be illuminated but shall not be of the flashing type.
2. Private garage and storage buildings, which are necessary to store any vehicle, equipment, or materials on the premises.
3. Off-street parking space subject to the provisions of Article III of this Local Law.

### SECTION 554 USES REQUIRING A SPECIAL USE PERMIT

All those uses requiring a special use permit in the Business District.

## SECTION 555 OTHER PROVISIONS AND REQUIREMENTS

1. All assembly, research, engineering, administration, storage and other related activities shall be conducted wholly within enclosed buildings.
2. At no time shall any use result in or cause dissemination of dust, smoke, smog, observable gas, fumes, odors, radiation or other atmospheric pollution, objectionable noise, glare or vibrations or hazard of fire or explosive or any other physical hazard to any adjacent buildings or to any plant growth or any land adjacent to the site.
3. The architectural treatment and general appearance of all buildings and grounds shall be in keeping with the purpose of this district and shall be of such quality and design as to be a visual asset to the area in which they are located as well as to adjacent development.
4. Off-street parking spaces shall be subject to the provisions of Section 310 of this Local Law.
5. Off-street loading facilities shall be subject to the provisions of Section 311 of this Local Law.
6. Industrial structures shall be located so as to be a minimum of seventy-five (75) feet from any non-industrial district. A natural buffer strip fifteen (15) feet wide shall be placed and maintained so as to provide visual screening and separation between industrial and non- industrial uses.
7. All uses permitted in this district shall set aside not less than twenty (20) percent of the lot to be devoted to seeding, planting, retention of tree cover, or other landscaping. This area shall be used for no other purpose.
8. Planning Board site plan review of Light Industrial permitted and special uses, prior to issuance of a building permit, is required.

## SECTION 556 SPECIFICATIONS

The following yard shall be provided:

Front: Fifty (50) feet; Side: Fifty (50) feet;

Rear: Fifty (50) feet.

Height: No building shall be erected in excess of thirty-five (35) feet in height.

Frontage: Lots shall have a minimum frontage of one hundred fifty (150) feet.

Minimum Lot Size: One (1) acre.

## SECTION 560 **GENERAL INDUSTRIAL DISTRICT (GI)**

### SECTION 561 PURPOSE

The purpose of the General Industrial District is to provide for the regulated establishment of industrial activity which is helpful in the development of a balanced economy.

## SECTION 562 PERMITTED USES

1. Any use of an industrial or agri-industrial nature (unless listed below at Section 564) which is not detrimental to the environment, not inherently unsanitary, not a menace to the public health, not a nuisance in law or in fact, and which is not noxious or offensive by reason of the emission of odor, dust smoke, gas, fumes or unusual, continuous or vexatious noise. The following are indicative of the uses intended to be permitted.

- (a) Machinery manufacture;
  - (b) Fabrication of metal products;
  - (c) Fabrication of paper products;
  - (d) Fabrication of wood products;
  - (e) Food and associated industries;
  - (f) The warehousing or storage of goods and products such as building materials and farm supplies;
  - (g) Automobile sales.
2. Customary agricultural operations.
  3. Essential services.
  4. Terminal facilities for transportation services.
  5. Laundries, dry cleaning and dyeing services.

## SECTION 563 PERMITTED ACCESSORY USES

1. Signs shall be permitted for advertising industrial activities on the premises which shall not exceed, in aggregate, fifteen (15) percent of the area of the front facade of the building. Such signs may be illuminated but shall not be of the flashing type.

2. Private garage and storage buildings, which are necessary to store any vehicle, equipment, or materials on the premises.

3. Off-street parking space subject to the provisions of Article III of this Local Law.

## SECTION 564 USES REQUIRING A SPECIAL USE PERMIT (SUBJECT TO THE SPECIAL USE PERMIT REGULATIONS AND PROCEDURES)

Bulk storage of agricultural fertilizers

Bulk storage of fuel and petroleum products

Bulk storage of chemicals

Automobile Wrecking Operation

Animal Sales Lots

Automobile Junk Yards; other Junk Yards

Telecommunications Towers & Wireless Facilities

Other uses which in the opinion of the Zoning Board of Appeals is similar in nature to the above listed uses.

## SECTION 565 OTHER PROVISIONS AND REQUIREMENTS

1. Residential uses shall be prohibited in this district.
2. All industrial processes shall take place within an enclosed building. Incidental storage out of doors may be permitted provided that such materials are shielded from view from public streets, adjacent off-street parking areas and adjacent non- industrial districts by fencing, landscaping or other appropriate measures.
3. All uses permitted in this district shall set aside not less than twenty (20) percent of the lot to be devoted to seeding, planting, retention of tree cover, or other landscaping. This area shall be used for no other purpose.
4. Each use in this district shall provide truck loading and unloading area in an amount sufficient to permit the transfer of goods and products in other than a public street, off-street parking area or front yard.
5. Industrial structures shall be located so as to be a minimum of one hundred (100) feet from any non-industrial district. This 100' buffer strip shall be perpetually maintained so as to provide visual screening and separation between industrial and non-industrial uses.
6. Parking areas may be located in any of the required yard areas provided they are not less than fifty (50) feet from a right-of-way line or twenty (20) feet from a property line.
7. Planning Board site plan review of General Industrial permitted and special uses, prior to issuance of a building permit or any change of use of the premises, is required.

#### SECTION 566 SPECIFICATIONS

Setbacks: Front: 70 feet; Side: 50 feet; Rear: 50 feet; Height: 35 feet  
Minimum lot size: Three (3) acres.

### ARTICLE VI

#### SPECIAL USE PERMITS

##### SECTION 600 PURPOSE

It is the purpose of this Local Law to use Special Use Permits to control the impact of certain uses upon areas where they will be incompatible unless conditioned in a manner suitable to a particular location. Such special use permits bring needed flexibility and individuality to the otherwise rigid controls of zoning regulations.

##### SECTION 601 ADMINISTRATION; SITE PLAN REVIEW

The Zoning Board of Appeals will administer the review and granting of Special Use Permits. Pursuant to 274-a of the Town Law, the Zoning Board of Appeals shall refer to the Planning Board those requests for Special Use Permits which require site plan review pursuant to Article XI of this local law. Upon the Planning Board's approval or deemed approval pursuant to 1102(2), of those matters so referred, the Zoning Board of Appeals shall complete the Special Use Permit review hereinafter set forth. Pursuant to Town Law

section 274-b, the Zoning Board of Appeals shall hold a hearing within 62 days of receipt of the completed application.

## SECTION 602 CONDITIONS

1. Special Use Permits may be authorized by the Zoning Board of Appeals only upon the imposition by such Board of such conditions and safeguards deemed appropriate by the Board to insure that such uses are not prejudicial or injurious to adjoining and neighboring properties and that they will not be violative of the public convenience and welfare. All appropriate conditions deemed by the Board to be necessary to safeguard the public health, comfort, convenience and general character of the neighborhood must be specifically set forth in the resolution granting such Special Use Permit. Failure of the permittee to abide by such conditions shall be deemed a Violation of this Local Law.

2. A Special Use Permit granted by the Zoning Board of Appeals authorizing the issuance of a Building Permit shall expire within 180 days of the granting of such authorization in the event that such Building Permit is not applied for within such 180 day period. Extension of such authorization may be granted by the Zoning Board of Appeals for additional 90 day periods for good cause shown.

3. General Standards. For every Special Use Permit, the Zoning Board of Appeals shall determine that:

A. Such use will be in harmony and promote the general purposes and intent of this Local Law.

B. The lot area is sufficient, appropriate and adequate for the use and for its reasonably anticipated operation and expansion.

C. The proposed use will not prevent the orderly and reasonable use of adjacent properties.

D. The site is particularly suitable for the location of such use in the community.

E. The characteristics of the proposed use are not such that its proposed location would be unsuitably near any place of public assembly.

F. Access facilities are adequate for the estimated traffic from public streets and sidewalks in order to assure public safety and avoid traffic congestion.

G. All proposed curb cuts have been approved by the street or highway agency which has jurisdiction.

H. Sufficient off-street parking and truck loading spaces are to be provided.

I. Adequate buffer yards and screening are to be provided where necessary to protect adjacent properties and land uses.

J. Adequate provisions will be made for the collection and disposal of storm water runoff from the site, and of sanitary sewage, refuse or other waste, whether liquid, solid, gaseous or of other character.

K. That the use will not unreasonably interfere with the preservation and integrity of any historic building.

L. That the application for the proposed use recognizes and provides for the further specific conditions and safeguards, if any, set forth in Article VII for particular uses.

M. The length of time the permit is valid for and whether the permit should be personal to the applicant and expire upon sale of the property.

## ARTICLE VII

### SPECIAL CONDITIONS AND SAFEGUARDS FOR CERTAIN SPECIAL USES

No authorization for a Building Permit shall be granted by the Zoning Board of Appeals for any use listed in this Article unless the following information is furnished to the Board and the Board specifically finds that, in addition to meeting all the general standards set forth in Article VI, the proposed special use also meets the special conditions and safeguards listed in this Article.

#### SECTION 700 AIRPORTS AND LANDING STRIPS

An application for the establishment, construction, enlargement or alteration of an airport shall include the following statements and information:

1. Classification of the proposed airport (commercial, non-commercial or restricted).
2. Type of aviation activities proposed.
3. Number of aircraft expected to be based at the airport within the next five (5) years.
4. Type of aircraft expected to utilize the airport.
5. Statement of the anticipated number of daily operations.
6. Copy of the airspace clearance granted by the Federal Aviation Administration for such airport, including USGS topographic map.
7. A copy of the New York State Commissioner of Transportation's determination concerning such airport in accordance with the provisions of Section 249 of the General Business Law as the same may be amended and revised.
8. An area map at a scale of no less than one inch equals five hundred feet (1" = 500') showing.
  - A. Distances, power lines or other possible obstructions within 2,000 feet of the ends of runways shall be accurately plotted.
  - B. Properties within 500 feet shall be plotted and owners identified.

#### SECTION 701 ANIMAL HUSBANDRY

1. Adjacent properties shall be adequately protected from noise, odors and unsightly appearance.
2. All buildings, structures and accessory use areas except off-street parking, shall be at least 100 feet from any property line; provided however that such structures and uses may be located on a temporary basis closer to such property line when the abutting lot is unimproved.

## SECTION 703 AUTOMOBILE LAUNDRY

1. The lot area shall be not less than 45,000 square feet, and shall have a minimum frontage of 150 feet along a major street or highway.

2. No church, school, library, playground or similar place of public assembly shall be within 500 feet of the site.

3. Storage area for vehicles waiting for service shall be provided on-site and shall not occur on a public street or highway. Not more than five (5) motor vehicles shall be stored out-doors overnight.

4. An automobile laundry shall not provide services other than washing, vacuuming, waxing, simonizing or similar treatment services.

5. Outdoor storage and display of accessories, portable signs and outdoor repair work shall be prohibited at all times. Premises shall not be used for the sale, rent or display of automobiles, trailers, mobile homes, boats or other vehicles.

## SECTION 704 CLUBS, LODGES, FRATERNAL ORGANIZATIONS

An application for a Special Use Permit authorizing a club shall include a plan showing the following information:

1. Landscaping areas or screening adequate to protect adjacent properties and land uses on all side and rear lot lines.

2. Minimum parking shall be one (1) space per employee and one (1) space per each three (3) members.

3. Entrance and exit points shall be from major or secondary roads.

## SECTION 705 DAY CARE CENTERS

All Day Care Centers must meet the following minimum requirements:

1. There must be an active outdoor play area of at least 200 square feet per child.

2. The outdoor play area must be adequately fenced in or otherwise protected from roads and nearby properties.

3. No outdoor play equipment may be placed within 15 feet of any property line, fence or structure.

4. Minimum parking shall be one (1) space per staff member and one (1) space for each 5 children.

## SECTION 708 EXCAVATION AND MINING

Excavation and/or mining for any and all materials, including clay, is **prohibited in all Zoning Districts**. No Special Use Permits or Temporary Conditional Use Permits or any other permit may be issued for any such activities.

## SECTION 709 FARM LABOR CAMPS

1. Camps, whether private or commercial, shall meet all requirements of the State Sanitary Code and other applicable laws, rules and regulations.
2. Housing facilities maintained shall be set back at least 100 feet from all property lines.
3. Special permits for labor camps are to be of a one year duration. Upon reapplication, the Zoning Board of Appeals may without public hearing, grant a permit renewal if all conditions of the original permit are complied with.

## SECTION 710 HOME BUSINESSES

1. No more than two (2) persons other than a member of the immediate family occupying such dwelling may be employed or engaged in the home business.
2. There shall be no outdoor display of materials, goods, supplies or other equipment related to the home business.
3. The use shall not generate vehicular traffic in greater volumes than that normal to the zoning district in which the use is located; sufficient off-street parking shall be provided elsewhere than on any required front yard area.
4. The appearance of the structure(s) utilized for the home business shall not be changed in any way that would cause the premises to differ from its residential character.
5. The home business use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the applicable zoning district.
6. One sign shall be allowed not to exceed four (4) square feet in area.
7. No more than forty (40) percent of the gross floor area of a dwelling shall be used for the conduct of a home business. The total gross floor area of a detached accessory structure shall be permitted for use of a home business provided that substantially all of such business is conducted within such accessory structure.
8. No more than one (1) commercial vehicle utilized by the home business may be parked at the premises on a regular basis.
9. No home business may be permitted where the only access is by a shared private road.
10. There shall be no use of utilities or community facilities substantially beyond what is normal for the use of the property for residential purposes.
11. Motor vehicle repair shops shall not be deemed home businesses except under the following conditions:
  - a. No more than two (2) vehicles shall be on the premises for repair at any one time.
  - b. Motor vehicle sales are prohibited.
  - c. The above section 710 (1) through (10) shall apply.
  - d. No motor vehicle repair shop shall be located within two hundred (200) feet of any residence not on the same lot or any cemetery, school, church, hospital, nursing home, senior citizen housing or other place of public assembly designed for occupancy by more than fifty (50) persons, nor shall such motor vehicle repair shop be located within five hundred (500) feet of another motor vehicle repair shop or gasoline station on the same

side of the street. Said distances shall be measured in a straight line between the nearest points of each of the lots or premises.

- e. The entire area of the site traveled by motor vehicles shall be hard surfaced.
- f. All repairs of motor vehicles shall be performed in an enclosed building.
- g. All motor vehicle parts or partially dismantled motor vehicles shall be stored under an enclosed building.

## SECTION 711 HOTELS AND MOTELS

Restaurants, cafeterias, swimming pools, newsstands, pharmacies, barbershops, hairdressers, gift shops and other personal service shops for the convenience of guests may be permitted as accessory uses. With the exception of an identifying sign for the restaurant, no external evidence of these internal commercial activities is permitted.

## SECTION 713 KENNELS AND ANIMAL HOSPITALS

- 1. Adequate landscaping or fencing shall be provided to create a visual, sound and smell buffer between such facility and adjacent properties.
- 2. All buildings, structures or other accessory uses shall be at least 100 feet from any property line or road right-of-way; provided however that such structures and uses may be located on a temporary basis closer to such property line when the abutting areas are unimproved.
- 3. All animals shall be kept within an enclosed building between 9:00 p.m. and 6:00 a.m.
- 4. Lot coverage shall not exceed 50 percent.
- 5. Adequate parking shall be provided off the highway right-of-way.

## SECTION 714 MULTIPLE FAMILY DWELLINGS

The provisions of Section 526 of this Local Law together with other Zoning Board provisions deemed necessary by the Zoning Board of Appeals shall apply.

## SECTION 715 MOTOR VEHICLE/HEAVY EQUIPMENT REPAIR SHOPS

- 1. Entrance and exit driveways shall have an unrestricted width of not less than 25 feet; shall be located no closer than ten (10) feet from any property line; and shall be designed as to avoid the necessity of any vehicle backing out into any public right-of-way.
- 2. No more than ten (10) licensed motor vehicles being serviced or repaired shall be stored outdoors and they shall be in areas effectively screened from all property lines. All such vehicles shall be stored in a neat, orderly manner.
- 3. Hours of operation: no earlier than 7:30 a.m.; not later than 8:00 p.m.
- 4. No motor vehicle repair shop shall be located within two hundred (200) feet of any residence not on the same lot or any cemetery, school, church, hospital, nursing home, senior citizen housing, or other place of public assembly designed for occupancy by more

than fifty (50) persons. Said distances shall be measured in a straight line between the nearest points of each of the lots or premises.

5. The entire area of the site traveled by motor vehicles shall be hard surfaced.

6. All repairs of motor vehicles shall be performed in an enclosed building and no more than two (2) motor vehicles shall be offered for sale on the premises at any one time.

7. All motor vehicle parts or partially dismantled vehicles shall be stored under an enclosed building.

#### SECTION 715.1 MOTOR VEHICLE SALES

1. Sale of motor vehicles shall be limited to the number of motor vehicles allowed on the premises at any one time set by the Zoning Board of Appeals, after considering lot size and location of the premises.

2. There shall be no outside storage of parts or materials.

3. All materials shall be stored and disposed of in conformance with all local, state, and federal regulations.

4. Vehicles shall be displayed in a neat and orderly fashion.

5. Hours of operation, amount of and type of illumination, customer parking, and size of area for display of vehicles shall be determined by the Zoning Board of Appeals.

#### SECTION 716 PLANNED COMMERCIAL INDUSTRIAL PARK

1. The site area shall be not less than 50 acres.

2. Individual sites resulting from subdivision or from leasing arrangements may average 80,000 square feet each provided that no site of less than 80,000 square feet may be located within 400 feet of the park's boundary and further that no site shall be less than 20,000 square feet

3. If the proposed park is not subject to the subdivision regulations as a result of common ownership, it shall be approved in a similar manner by the Planning Board and meet the same standards for design and public improvements.

#### SECTION 717 PLANNED RESIDENTIAL DEVELOPMENT

No authorization for a building permit or permits shall be granted unless the Zoning Board of Appeals shall specifically find that the proposed special use for the planned residential development is in keeping with the intent of this provision to provide for flexible planning of residential development while conserving the natural environment of the Town and meeting the following special conditions and safeguards:

1. An overall development plan shall be presented showing the use or uses proposed, including dimensions indicating the areas set aside for each use, and the locations of all structures, parking spaces and rights-of-way or driveways, and the provision for sewer and water service facilities.

2. Residential dwelling units may be in single family, two family or multiple dwelling structures; provided that the total number of dwelling units shall not exceed 2.4 per gross acre; and further provided that the minimum yard provisions, and in the case of a

multiple dwelling, the minimum spacing between buildings, shall be not less than those required:

- A. in an R Residence District for a single or two family dwelling;
- B. in an MR Residence District for a multiple dwelling.

3. Open space or common land resulting from the planned residential development design shall only be used for private or municipal recreation, including natural park land. Such land shall only be owned by a non-profit corporation, or shall be offered for dedication to the Town or other public agency for the same uses; but in case of a non-profit corporation, a pre-established offer of dedication shall be filed with the Town for acceptance if the non-profit corporation were ever discontinued or failed to maintain the private recreation use or natural park land.

4. The proposed planned residential development shall comply with all other applicable requirements of the municipality with respect to land development, including the Town of Royaltown Land Subdivision Regulations.

#### SECTION 718 PUBLIC AND SEMI-PUBLIC BUILDING AND GROUNDS

1. Landscaped buffer areas at least ten (10) feet in width or other suitable screening shall be provided for the entire length of any lot line adjacent to any residence or adjacent street.

- 2. No structure or use shall be located within 15 feet of any adjacent property line.
- 3. Entrance and exit points shall be from major or secondary roads.
- 4. Parking areas shall not be within ten (10) feet of any property line.

#### SECTION 719 RETAIL GASOLINE OUTLET; SERVICE STATION

1. Entrance and exit driveways shall have an unrestrictive width of not less than 25 feet and shall be located no closer than 15 feet from any property line; and shall be designed to avoid the necessity of any vehicle backing out into any public right-of-way.

2. Entrance and exit points shall be from a major or secondary road.

3. All buildings shall be set back from the major or secondary street line a distance of not less than 30 feet.

4. Gasoline pumps shall be located not less than 20 feet from the street line and not less than 30 feet from all other property lines.

5. No such establishment shall be located within a distance of 200 feet of a school, church, hospital, nursing home, senior citizen housing or other place of public assembly designed for occupancy by more than 50 persons, or within 500 feet of another gasoline station or repair garage on the same side of a street. Said distance shall be measured in a straight line between the nearest points of each of the lots or premises.

6. Landscaped areas of at least ten (10) feet in width shall be provided along with property lines to lessen any visual unattractiveness.

7. The entire area of the site traveled by motor vehicles shall be hard surfaced.

## SECTION 720 FUR FARMS

Fur farms shall not be allowed on a site less than 50 acres in size. A plot plan showing all proposed facilities and improvements shall be provided. A permit shall be for a period of not more than ten (10) years, renewable after 75 percent of the permit time has elapsed.

## SECTION 721 PIG FARMS

Pig farms shall not be allowed on a site less than 50 acres in size. A plot plan showing all proposed facilities and improvements shall be provided. A permit shall be for a period of not more than ten (10) years, renewable after 75 percent of the permit time has elapsed.

## SECTION 722 INDUSTRIALIZED POULTRY FARM

Industrialized poultry farms shall be on a site of not less than 50 acres in size. A plot plan shall be provided showing all proposed facilities and improvements and plans for all buildings. Plans for disposing of manure shall be specified and shall be approved by the County Health Department. Poultry cages shall be suitably removed from all lot lines. Permits shall be for a period not to exceed ten (10) years, renewable after 75 percent of the permit time has elapsed.

## SECTION 723 SEASONAL TENT, TRAILER OR RECREATIONAL VEHICLE CAMP

A seasonal tent or trailer camp shall be on a site of not less than twenty (20) acres. A site plan shall be provided showing all proposed improvements for individual tent, trailer or recreational vehicle site. Prior approval of the County Health Department of proposed potable and sanitary facilities shall be obtained. Camp sites and activity areas shall be suitably removed from project boundaries. Driveways shall be designed for safety and privacy of the campsites. Permits shall be granted for a period of not more than 10 years but shall be renewable after the expiration of 75 percent of the specified period.

## SECTION 724 PUBLIC UTILITY SUBSTATION

A public utility substation, if necessary, for the operation of a transmission line or for service to the community shall be allowed only after approval of a plot plan and construction plan of the installation, together with a landscaping plan prepared by a licensed landscape architect. The application for a permit shall specify any proposed and permitted storage of material at the site.

## SECTION 726 LIVERY AND COMMERCIAL STABLE

Livery and commercial stables of 25 or more horses shall be situated on a site having at least 50 acres, except that where riding trails are available near the site on public lands, a smaller site may be permitted. Permits shall not be granted for a period of longer than 10 years but may be made renewable upon the expiration of not less than 75 percent of specified period.

## SECTION 727 PERMANENT ROADSIDE STANDS

A plot plan shall be required showing roadside conditions for 500 feet on either side of the proposed stand locating trees, signs, fences and other obstacles to vision; driveways, culverts, ditches, bridges and other obstacles to movement from highway in the immediate vicinity of the stand; and showing the location of the proposed stand, related signs and parking areas. Parking areas shall be so designed as to limit any need for any vehicles to back onto the traffic lanes. Permits shall not be granted for a period of longer than 10 years but may be made renewable upon expiration of not less than 75 percent of specified period.

## SECTION 728 MOBILE HOME PARKS

1. The minimum site area of proposed mobile home parks shall be not less than 25 acres.

2. Special use permits for the establishment and operation of mobile home parks shall be for one year's duration. A permit shall expire on the first of January next following the date of issuance, but may be renewed without public hearing under the provisions of this section for additional periods of one year if all conditions of the original permit are found to have been complied with by the Zoning Enforcement Officer and Zoning Board of Appeals.

3. Mobile home lots shall have an area of not less than 7,200 square feet. Each mobile home lot shall front on an interior park roadway and have a minimum width of 70 feet.

4. Minimum front setback for mobile homes: 20 feet; minimum side setback: five (5) feet on one side with a total of 20 feet on both sides; minimum rear setback: ten (10) feet.

5. There shall be provided a buffer area between the right-of-way line of adjacent public highways in any portion of a mobile home lot of at least 100 feet. There shall also be provided between any portion of a mobile home and the boundary of a mobile home court a buffer area of at least 60 feet. Such buffer areas shall be primarily clear of obstruction other than trees and other natural landscape material, and shall not be used for any aboveground structures.

6. Not more than one (1) mobile home shall be located on any one (1) mobile home lot. Every mobile home within a mobile home park shall be located on a mobile home lot or in a designated storage area shown on the approved site plan for said park.

7. At least one (1) service building shall be constructed in each mobile home park which shall be adequate to provide for storage of all equipment, tools and materials necessary for the maintenance of the park, and all such equipment, tools and materials shall be stored within said building when they are not in use.

8. Each mobile home lot must have not less than two (2) off-street parking spaces. Such parking spaces shall be connected to the entrance of the mobile home by a paved sidewalk having a minimum width of 24 inches.

9. No boats, campers, travel trailers, recreational vehicles or unregistered and unlicensed motor vehicles shall be parked or stored at any place within a mobile home park except in areas designated and approved for such storage as part of the site plan approval.

10. Every roadway within a mobile home park shall have a minimum pavement width of 22 feet and a minimum right-of-way width of 50 feet. If cul-de-sacs exist, they shall have a minimum diameter of 90 feet.

11. A complete water distribution system approved by the Health Department, including a water-service pipe for each mobile home lot and approximately spaced fire hydrants shall be installed.

12. A sanitary sewage disposal system approved by the Health Department and other appropriate agencies shall be installed, including a sewer connection for each mobile home lot.

13. All public utility, electric, gas, cable television and telephone lines shall be installed underground.

14. Appropriate street lighting shall be installed on interior roadways with the minimum number of lights being one at each intersection of interior roadways with each other, or with abutting public road(s) and at least every 200 feet where such intersections are more than 200 feet apart.

15. Pedestrian walkways shall be provided along at least one side of all interior streets. Such walkways shall consist of paved sidewalks or stabilized gravel all-weather paths and shall have a width of approximately four (4) feet. Walkways shall also provide access to recreation areas if such areas are not located adjacent to a street.

16. No mobile homes shall be located on a mobile home lot until the roadways, sanitary sewage disposal system, water supply system and storm drainage system serving said mobile home lot have been installed in accordance with the approved site plan for the mobile home park.

17. All existing trees shall be preserved insofar as possible in the design of the park. At least one (1) shade tree of not less than two (2) inches in diameter as measured one foot above ground level shall be planted on each mobile home lot.

18. All fuel tanks used for heating within a mobile home park, including all fuel tanks used for heating individual mobile homes shall be installed in accordance with applicable safety standards and regulations.

19. Every mobile home park shall have a recreational area or open-space area for use by the occupants of the mobile home park. Such areas shall be as centrally located as the topography and design of the park permit. Such area shall be not less than 10,000 square feet or 1,000 square feet per mobile home lot in the park, whichever is greater.

20. The park owner shall provide for the regular collection and disposal of garbage, trash and rubbish.
21. No more than one (1) accessory building shall be permitted on any mobile home lot.
22. Each mobile home shall be enclosed at the bottom with a fire resistant skirt or enclosure within 30 days after the placement of the mobile home on the lot.
23. No enclosure or addition, with the exception of carports, door porches and patios shall be constructed on or added or attached to the exterior of any mobile home.
24. No mobile home shall be offered for sale, display for sale or sold within a mobile home park unless such mobile home is located on a mobile home space and is connected to an electric public utility supply and to a public sewer and public water supply.
25. Every roadway within a mobile home park shall be maintained in good repair and shall be open at all times reasonably possible for travel by occupants of the park and necessary fire, police, ambulance, public utility maintenance and fuel supply vehicles. The park owner shall be responsible for providing and paying the cost of such maintenance and all necessary snow removal.
26. Sale of lots. Any sale of a mobile home space or spaces or portion of a mobile home park, other than the entire mobile home park, as shown on the plan of such park approved by the Town, shall thereupon immediately invalidate the special use permit for such park. Any use of any of the premises within the mobile home park other than as a mobile home park shall thereupon immediately invalidate the special permit of such park approved by the Zoning Board of Appeals.
27. Home occupations prohibited. Home occupations, home professional offices and similar uses are not permitted in mobile home parks.
28. All mobile home parks containing 20 or more mobile home lots shall have access from two (2) points along a single public street or highway, or if bordering on two (2) highways, access can be one (1) from each street or highway, such access points being separated by at least 100 feet.
29. Mobile home parks shall have adequate facilities for drainage of surface and sub-surface water. The entire mobile home park shall be graded to facilitate the safe and efficient drainage of surface water and to permit no ponding areas where water will stand for lengths of time so as to constitute a health or other hazard. Drainage ditches shall be provided where necessary to provide for the removal of surface drainage. These ditches shall be provided in such a way as not to constitute a hazard to pedestrians. Gutters, culverts, catch basins, drain inlets, storm water sewers, approved combined storm and sanitary sewers, or other satisfactory drainage systems shall be utilized where deemed necessary, and shall be of a size specified by the Town Planning Board.
30. Mobile home parks shall be properly maintained so as to insure the desirable residential character of the neighborhood.
31. Upon application in writing by a permittee for renewal of the mobile home park special use permit, the Zoning Enforcement Officer, with the approval of the Zoning Board of Appeals, shall issue a permit renewal if all conditions have been complied with. If any changes have taken place in the mobile home park, the applicant must produce a revised plan showing said changes before a permit renewal will be provided.

## SECTION 729 BED-AND-BREAKFAST ESTABLISHMENT

1. Bed-and-breakfast uses are permitted in the A, B, R, and MR districts of the town, provided that all requirements set forth below are observed. No person, firm, corporation, association, partnership or any other entity or business shall operate a bed-and-breakfast establishment in any zone without first having obtained a special use permit from the Zoning Board of Appeals.

### 2. Permit Regulations.

A. The Zoning Board of Appeals shall have sole authority to issue special use permits for bed-and-breakfast use.

B. Said permits shall be issued on a one year nontransferable, renewable basis. No bed-and-breakfast establishment shall operate at any time in violation of the provisions of this section.

C. The form of the permit and application therefor shall be prescribed by the Zoning Board of Appeals. The applicant shall provide all information required by the application, as well as the following:

(1.) A drawing of the building floor plan with accurate dimensions. The drawing shall designate rooms for use by guests, designate exits and access to exits and identify and specify the off-street parking spaces that are required by this section.

(2.) Proof of adequate liability insurance.

(3.) The application shall be signed by all owners of the premises and shall contain at least the following: the name, address and telephone number of the owner(s).

D. Requirements. Before a permit may be issued and/or renewed, the following requirements shall be fulfilled:

(1.) The premises shall be inspected by the Code Enforcement Officer or his deputy.

(2.) Each dwelling shall have exits clearly marked.

(3.) Each dwelling shall have adequate exits (number, location and size) for the maximum number of guests which can be housed pursuant to this section.

(4.) Each guest room shall have a functioning smoke detector that complies with the New York State Uniform Fire Prevention and Building Code.

(5.) Each guest room shall have written information, clearly posted, showing the location of all means of exiting the building in the event of an emergency.

(6.) Each establishment shall have a minimum of one fire extinguisher (2A-10BC rated) on each floor with sleeping quarters and may, in the discretion of the Code Enforcement Officer, be required to have additional such fire extinguishers available.

(7.) The required fee shall be paid each year to the Town Clerk.

(8.) There shall be at least one bathroom and shower for every six people who may reside or stay at the establishment as authorized in section E(2) below.

### E. Additional requirements.

(1.) There shall be no more than three rooms occupied in the residence by bed-and-breakfast guests.

(2.) The minimum square footage of each room shall be one hundred twenty square feet. Up to two guests shall be permitted in a room with said one hundred twenty square feet. An additional sixty square feet is required for every guest over two guests per room.

(3.) The quarters to be utilized by the guest or the occupants of the premises shall not be permitted in any accessory structure.

(4.) The use by guests shall be no longer than eighteen consecutive calendar days.

(5.) The serving of meals to paying guests shall be limited to breakfast.

(6.) One off-street parking space shall be provided for each living quarter designated as a rented room, as described in the application and permit, plus such additional parking spaces as the Board shall deem necessary for the residents. All parking spaces shall be graveled or paved.

(7.) No inventory of goods produced off the premises shall be maintained for sale on the premises.

(8.) Only one nonilluminated identification sign shall be permitted. Such sign shall not be larger than four square feet.

(9.) Each permit shall be renewed annually on July 1.

(10.) The permit issued by the Zoning Board shall be posted inside in a conspicuous location at all times.

F. The Code Enforcement Officer shall keep a directory setting forth a current listing of all premises for which a permit has been issued. The Code Enforcement Officer shall send a copy of said directory to the Fire Department.

G. Fees. The fee for the permit hereby required shall be established periodically by the Town Board by resolution, which fee shall be incorporated herein and made part hereof.

## **ARTICLE VIII**

### **PERMITS AND PROCEDURES**

#### **SECTION 800 PERMITS REQUIRED**

No use or structure shall be established, erected or land developed until a permit has been issued by the Zoning Enforcement Officer. At the discretion of the Zoning Officer, and pursuant to section 1101, a change in use of land and/or building may require Planning Board review prior to issuance of a permit. Permit applications shall be filed with the Zoning Enforcement Officer.

#### **SECTION 801 APPLICATION PROCEDURE AND REQUIRED INFORMATION**

1. Permit requirement. A building permit shall be required prior to the erection of, alteration of, addition to any building or structure, or any excavation for farm pond purposes or otherwise. No excavation shall be commenced for any building, structure, or pond, until a building permit has been issued. It shall be unlawful for any person to commence work requiring a building permit until such permit has been duly issued.

2. Application. Every application for a building permit shall be accompanied by a plan, drawn to scale, showing:

A. The lot upon which the building is proposed to be erected or on which an existing building is to be modified, together with lot dimensions, street address and map

numbers, the names of abutting streets and the location, dimensions and uses of any existing buildings on the lot.

B. The location, dimensions and proposed use of buildings for which the permit is sought.

C. A set of construction plans if applicable.

D. Such other information as the Zoning Enforcement Officer shall deem necessary to permit a determination as to whether the proposed building, structure, improvement or use is in conformity with this Local Law.

3. Review and action. No building permit application shall be approved and no building permit shall be issued for any purpose except in compliance with the provisions of this Local Law and such other applicable laws, rules, building codes, and regulations currently in force at the time of the application.

4. Time limit. If the work for which a building permit has been issued is not commenced within six (6) months after the date of issuance of the permit, or if commencement operations cease for a period exceeding six (6) months, the permit shall expire, and a new permit shall be required before such work is commenced or recommenced. In no event shall any permit be operable or considered to be in lawful existence for a period extending beyond two (2) years from the original time of issuance. When the time for completion of construction exceeds the above period, application may be made for a new permit.

5. Certificate of occupancy for a building where a building permit is required.

A. Requirement. Except for agricultural or farm buildings, no land shall be occupied or used, and no building or structure hereafter erected, altered or extended shall be used or changed in use, and no non-conforming use shall be changed or extended until a certificate of occupancy shall have been issued by the Zoning Enforcement Officer who shall ascertain that the building, structure or use is in conformity with this Local Law.

B. The application for a certificate of occupancy is to be made coincidentally with the application for the building permit, and no non-farm building permit shall be issued until application shall have been made for a certificate or occupancy.

C. Review and action. A request for issuance of a certificate of occupancy may be made upon completion of the erection, addition or alteration of any building, structure or portion thereof. If the request is denied, the Zoning Enforcement Officer shall issue to the applicant a written statement containing the reasons for such denial. If the Zoning Enforcement Officer finds that the construction has been completed or has progressed to an extent that compliance with the terms of the building permit is finally ascertainable and finds that the building may be safely occupied and that the provisions for use are in conformity with the provisions of this article, he may issue a temporary certificate of occupancy prior to final completion.

## **ARTICLE IX**

### **ZONING BOARD OF APPEALS**

#### **SECTION 900 CONTINUATION; APPOINTMENTS**

The previously existing Zoning Board of Appeals is hereby continued in office, and its members shall continue to serve their appointed terms. Future appointments shall continue to be governed by Section 267 of the Town Law as the same may be amended or revised.

#### **SECTION 901 POWERS AND DUTIES**

The Zoning Board of Appeals shall have all the powers and duties prescribed by the Town Law and this Local Law, which powers and duties, as related to zoning, are summarized and more particularly specified in the following sections: Section 902 through 905.

#### **SECTION 902 INTERPRETATIONS**

The Zoning Board of Appeals shall decide any question involving the interpretation of any provision of this Local Law upon an appeal from a decision by the Zoning Enforcement Officer.

#### **SECTION 903 VARIANCES**

The Zoning Board of Appeals shall hear any request for a variance and may, in specific instances, grant such variance from the terms of this Local Law as will not be contrary to the public interest where, owing to special conditions or circumstances, a literal enforcement of the provisions of this Local Law would result in unnecessary hardship with respect to use variances or practical difficulties with respect to area variances and so that the spirit of this Local Law shall be observed and substantial justice done. In granting any variance, the Board of Appeals may prescribe any condition applying thereto that it may deem necessary or desirable.

#### **SECTION 904 SPECIAL USES**

The Zoning Board of Appeals shall hear and decide any request for a special use permit as required by this Local Law. Where required by this Local Law or where deemed desirable by the Board of Appeals, a special use permit shall be limited in time to permit periodic review in light of the established character of the permitted operation and its effect upon the community and in view of changing conditions. Where maximum periods for such reviewable permits are stated herein, the Board may require shorter, but not longer, periods. After 75 percent or such other percent as may be specified, of the permit time has elapsed, an application for renewal of the permit may be submitted. Unless

otherwise specifically provided, such renewal will be processed in a similar manner as new permits with advertising and public hearing required. Prior to renewing such a permit, the Zoning Enforcement Officer shall report as to compliance with the specific requirements of the permit. Such report shall be entered into the record and given due consideration relative to the request for renewal and the appropriate renewal period.

#### SECTION 904A TEMPORARY CONDITIONAL USE PERMIT

The Zoning Board of Appeals, in specific cases, after due notice and public hearing, and subject to appropriate conditions and safeguards, determine and vary the application of the provisions of this Local Law in harmony with the general purposes and intent by granting temporary conditional use permits for such periods of time as shall be appropriate with regard to the circumstances of each particular case, for structures and uses in contravention of the requirements of this Local Law, provided such uses are not prejudicial or injurious to adjoining and neighboring properties and provided further that the public convenience and welfare will be substantially served thereby. Such permits may be personal, subject to plenary renewal, upon transfer of ownership of the property.

#### SECTION 905 APPLICATION AND APPEAL PROCEDURES

##### 1. Application.

A. Interpretation. An appeal for interpretation of a decision of the Zoning Enforcement Officer may be taken by any aggrieved person. Such appeal shall be taken within 30 days of the decision by filing with the officer from whom the appeal is taken and with the Zoning Board of Appeals, a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Zoning Board of Appeals all papers related to the appeal.

B. Variance. An appeal for a variance may be taken by a person qualified to receive a building or occupancy permit after denial of a permit by the Zoning Enforcement Officer.

C. Special use permit / Temporary conditional use permit. An application for a special use permit or temporary conditional use permit is not an appeal and may be made directly to the Zoning Board of Appeals. If the Zoning Enforcement Officer determines that a building permit cannot be issued without such special approval, the applicant shall be referred to the Zoning Board of Appeals and a report of this determination shall be made by the Zoning Enforcement Officer to the Board at or before the next regularly scheduled meeting.

2. Form of Application. All appeals and applications made to the Zoning Board of Appeals shall be in writing on forms approved by the Board, and each appeal or application shall fully set forth the circumstances of the case. Every appeal or application shall refer to the specified provision of the section or portion of this Local Law involved and shall exactly set forth, as the case may be, the following:

A. The interpretation that is claimed.

B. The details of the variance that is applied for and the grounds on which it is claimed that the same should be granted. For area variances, the application must

state why the applicant feels that the applicable zoning regulations and restrictions have caused unnecessary hardship. For use variances, the application must state why the applicant feels there is unnecessary hardship.

C. The use or change in requirements for which the special use is sought.

3. Fees. Appeals and applications requiring public notices shall be accompanied by a fee to be determined from time to time by appropriate resolution of the Town Board.

4. Public notice. The Zoning Board of Appeals shall fix a time and place for a public hearing on each special use and temporary conditional use permit application or variance appeal, and shall give notice thereof as follows:

A. By advertising in the newspaper in the manner prescribed by Town Law.

B. By sending a notice by regular mail to the owners of the properties within 300 feet of the property affected.

C. By notifying any town citizen or a group of citizens who may have registered their names and addresses for this purpose with the Board.

5. Those applications for special use permits requiring site plan approval shall first be referred to the Planning Board for review in accordance with ARTICLE XI. An adequate time for such review shall be afforded to the Planning Board before the public hearing is scheduled.

6. Hearings. The hearings of the Zoning Board of Appeals shall be held at the call of the Chairman. The Chairman or, in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses. The Board shall keep minutes of its proceedings showing a vote of each member on every question and shall keep records of its examinations and other official actions which shall be filed with the Town Clerk and shall be considered a public record.

7. Decisions. Every decision of the Zoning Board of Appeals shall be by resolution indicating the vote of each member and any conditions attached to an approval.

8. The Zoning Board of Appeals shall issue to the applicant a true copy of the resolution wherein a special use permit, temporary conditional use permit, or variance is granted, and the Zoning Enforcement Officer shall issue required permits in accordance with such resolution. The Board may rescind, cancel, or revoke any such resolution for any violation of the conditions imposed. In the event of a rescission, cancellation, or revocation of such resolution, the Board shall promptly notify the owner of the property in question and the Zoning Enforcement Officer so that the latter may take appropriate action.

## **ARTICLE X**

### **PLANNING BOARD**

#### **SECTION 1001 CONTINUATION; APPOINTMENT**

The previously existing Planning Board is hereby continued and its members shall continue to serve their appointed terms. Future appointments shall continue to be governed by Section 271 of the Town Law as the same may be amended and revised.

#### **SECTION 1002 POWERS AND DUTIES**

The Planning Board shall have all powers and duties prescribed by the Town Board.

#### **SECTION 1003 FUNCTIONS OF THE PLANNING BOARD**

It shall be the duty of the Planning Board of the Town of Royalton:

1. To prepare recommendations for changes in a comprehensive land development plan for the Town.
2. To review and comment on all proposed zoning amendments after referral to it by the Town Board.
3. To conduct site plan review as authorized by the pertinent provisions of this Local Law.
4. To consider requests for advisory assistance to the Zoning Board of Appeals on other matters.
5. To research and report on any matter referred to it by the Town Board.
6. To handle subdivision plat applications and approvals in accordance with Sections 276 and 277 of the Town Law and the subdivision regulations of the Town.
7. To make investigations and maps, reports and recommendations in any matter related to planning and development as it deems desirable providing expenditure of the Board does not exceed appropriations made by the Town Board.

## **ARTICLE XI**

### **SITE PLAN REVIEW**

#### **SECTION 1100 PURPOSE**

The intent of this section is to set forth additional general standards applying to certain land uses and activities. The nature of these uses and activities require special consideration of their impacts upon surrounding properties, the environment, community character and the ability of the Town to accommodate development consistent with the objectives of this Local Law.

## SECTION 1101 APPLICATIONS

All applications for any building or zoning permits and special use and temporary conditional use permits with respect to the uses and structures in the following zones shall be considered incomplete until such applications are accompanied by site plan approval from the Planning Board or Zoning Board of Appeals:

(a) In the Agricultural District, the following uses - campgrounds and seasonal tent, trailer or recreational vehicle camp; cemeteries; mobile home parks; multiple family dwellings; airports;

(b) In the One and Two Family Residential District, the following uses - cemeteries; planned residential developments; multiple family dwellings;

(c) In the Multiple Family Residential District, the following uses - planned residential developments; multiple family dwellings; lodging houses; bed and breakfast;

(d) In the Business District, all uses.

(e) In the Light Industrial District, all uses.

(g) In the General Industrial District, all uses.

(h) In any district, any use or special use not set forth as a permitted, accessory or special use deemed by the Zoning Board of Appeals to be similar in nature to those uses requiring Planning Board site plan approval. The Zoning Board of Appeals may, in addition, refer such other matters deemed by it to be appropriate for Planning Board review and recommendation on an advisory basis only. In such cases, the Planning Board may consider the site plan criteria hereinafter set forth, but site plan approval shall not be a prerequisite for further review by the Zoning Board of Appeals when such advisory opinions are requested. However, with respect to the above specifically listed matters, no zoning permit shall be issued until all other requirements of this article, as well as all other applicable provisions of this local law have been met.

(i) Additionally, for any change in use in a B, LI, or GI district, prior to change, there must be site plan review.

## SECTION 1102 PROCEDURE

1. Each application for a building permit, variance or special use permit for any structure, building or use requiring site plan approval which is not already accompanied by site plan approval shall be referred to the Town Planning Board or Zoning Board of Appeals, depending on the nature of the application.

2. Within 30 days of receipt of the application, the Planning Board shall render a decision to approve, approve with conditions or deny, and forward the decision to the Zoning Enforcement Officer. An extension of this 30 day period may be granted upon consent of both the applicant and the Planning Board or upon the Planning Board's own determination that by reason of the complexity of the matter involved, an additional period of time, not exceeding 30 days, is reasonably required for its consideration thereof. If the Planning Board or Zoning Board of Appeals fails to act within said 30 day period or such extension, the site plan shall be considered approved.

3. A written record of the Planning Board or Zoning Board of Appeals minutes and decisions together with all documents pertaining to the case shall be filed in the Office of the Town Clerk and shall be mailed to the applicant.

## SECTION 1103 PREAPPLICATION CONFERENCE

Preapplication conferences are to be encouraged between the Planning Board and the applicant to review the basic site design concept and generally determine the information to be required on the site plan.

## SECTION 1104 APPLICATION FOR SITE PLAN APPROVAL

An application for site plan approval shall be made in writing to the Zoning Enforcement Officer who shall cause it to be presented at the next regularly scheduled meeting of the Planning Board or Zoning Board of Appeals as the case may be. The application shall be accompanied by information drawn from the following checklist. The Planning Board or Zoning Board of Appeals may require additional information, if necessary, to complete its review.

1. Plan checklist for all site plans:

- A. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
- B. North arrow, scale and date;
- C. Boundaries of the property plotted to scale;
- D. Existing watercourse and bodies of water;
- E. Location of any slopes of 5 percent or greater;
- F. Proposed grading and drainage;
- G. Location, proposed use and height of all buildings and site improvements including culverts, drains, retaining walls and fences.
- H. Location, design and construction materials of all parking and truck loading areas, showing points of entry and exit from the site;
- I. Location of outdoor storage, if any;
- J. Description of the method of sewage disposal and location of the facilities;
- K. Identification of water source; if well, locate;
- L. Location, size and design and construction materials of all proposed signs.
- M. Location and proposed development of all buffer areas, including existing vegetative cover;
- N. Location and design of outdoor lighting facilities;
- O. General landscaping plan.

2. As necessary, the Planning Board or Zoning Board of Appeals may require the following:

- A. Provision for pedestrian access, if necessary;
- B. Location of fire lanes and hydrants;
- C. Designation of the amount of building area proposed for retail sales or similar commercial activity.
- D. Other elements integral to the proposed development as considered necessary by the Planning Board.

## SECTION 1105 PLANNING BOARD/ZONING BOARD OF APPEALS REVIEW OF SITE PLAN

The Planning Board's or Zoning Board of Appeal's review of the site plan shall include, as appropriate, the following:

1. General Considerations:
  - A. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
  - B. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
  - C. Location, arrangement, appearance and sufficiency of off-street parking and loading.
  - D. Location, arrangement, size and design and general site compatibility of building, lighting and signs.
  - E. Adequacy of storm water and drainage facilities.
  - F. Adequacy of water supply and sewage disposal facilities.
  - G. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum feasible retention of existing vegetation.
  - H. In the case of an apartment complex or other multiple dwelling, the adequacy of useable open space for play areas and informal recreation.
  - I. Protection of adjacent or neighboring properties against noise, glare, unsightliness or nuisances.
  - J. Protection of solar access on adjacent or neighboring properties.
  - K. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
  - L. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
2. Consultant Review. The Planning Board or Zoning Board of Appeals may consult with the Town Building Inspector, Town Engineer, fire commissioners, highway department, county planning department and other local county officials, in addition to representatives of federal and state agencies including, but not limited to, the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.

## **ARTICLE XII**

### **OTHER LOCAL LAWS, RULES AND REGULATIONS**

#### **SECTION 1200 NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT**

Town of Royalton Local Law No. 1 of the year 1981, as the same may be amended and revised, provides for environmental quality review of actions which may have a significant effect on the environment and implements for the Town of Royalton the State Environmental Quality Review Act and the rules and regulations officially promulgated thereunder in Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York as amended. The provisions of such law and such regulations shall be followed, where applicable, by the appropriate town agencies and officials at the time of any review or consideration of applications for any special use permit, variance or amendment to this Local Law.

#### **SECTION 1201 FLOOD DAMAGE PREVENTION LAW**

1. Town of Royalton Local Law No. 1 of the year 1987 establishing a Flood Damage Prevention Law requires the issuance of flood plain permits before construction or development in any area of special flood hazard in the Town as designated on the official flood insurance rate maps (FIRM) issued by the Federal Emergency Management Agency. The boundaries of the Special Flood Hazard Areas so identified are hereby adopted by reference and are delineated on the zoning map, if the scale of the map so permits such delineation; otherwise, such boundaries are specifically set forth on such rate maps.

2. The provisions of said Flood Damage Prevention Law, as the same may be amended and revised, shall take precedence over the provisions of this Local Law to the extent that such provisions are more restrictive than and are inconsistent with the provisions of this Local Law.

#### **SECTION 1202 NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE**

The provisions of Town of Royalton Local Law No.1 of the year 1985 providing for the administration in the Town of Royalton of the Uniform Fire Prevention and Building Code Act (Executive Law, Article 18) and setting forth requirements and fees for building permits and certificates of occupancy and for building inspections, shall take precedence over the provision of this Local Law to the extent that such provisions are inconsistent with the provisions of this Local Law.

## SECTION 1203 FRESHWATER WETLANDS ACT

Pursuant to the Freshwater Wetlands Act (Article 24 of the Environmental Conservation Law of the State of New York), Freshwater Wetlands Maps have been filed with the Town Clerk to show the approximate location of the boundaries of freshwater wetlands in the Town which are regulated by the Freshwater Wetlands Act. Reference is made to said Article 24 and the rules and regulations promulgated thereunder for additional restrictions applicable to such Wetlands as shall duly have been established in the Town of Royalton.

## SECTION 1204 UNSAFE BUILDINGS LOCAL LAW

Town of Royalton Local Law No. 5 of the year 1981, providing for the repair or removal of unsafe buildings and collapsed structures, shall take precedence over the provisions of this Local Law to the extent that such local law, as the same may be amended and revised, is inconsistent with the provisions of this Local Law.

## SECTION 1205 REFERRAL TO COUNTY PLANNING BOARD

Section 239-m of the General Municipal Law of the State of New York provides for notice of certain proposed zoning actions to be submitted to the appropriate County planning agency. The provisions of such law shall be followed by the Town Board and the Zoning Board of Appeals at the time of the consideration of applications for any special use permit, variance or amendment to this Local Law.

## **ARTICLE XIII**

### **AMENDMENTS**

## SECTION 1300 TOWN BOARD MAY AMEND

The Town Board may, from time to time, amend, supplement, change, modify or repeal the provisions of this Local Law, including the Zoning Map incorporated herein, in the manner set forth in the Town Law and the Municipal Home Rule Law.

## SECTION 1301 INITIATION OF PROPOSED AMENDMENTS

A proposed amendment to or change in this Local Law may be initiated by motion of the Town Board, by recommendation of the Zoning Board of Appeals or Planning Board to the Town Board or by a petition of a property owner or owners to the Town Board in accordance with Section 1302.

## SECTION 1302 PETITION FOR AMENDMENT

1. A petition requesting a change in or amendment to this Local Law shall be signed and acknowledged by the person presenting it in the same manner as is required for the recording of a deed to real property, and shall be filed with the Town Clerk in triplicate.
2. When a petition is presented requesting a change or changes in district boundaries or for the creation of a new district or districts, the petition shall be signed by the owners in fee of more than fifty (50%) percent of the area for which the petition is presented.
3. The expenses of advertising a notice of a public hearing regarding such proposed amendment or change initiated by petition shall be paid by the petitioner.

## SECTION 1303 REFERRAL TO PLANNING BOARD; REPORT

1. Every such proposed amendment initiated by motion of the Town Board or by petition of a property owner shall be referred by the Town Board to the Town Planning Board for a report and recommendation thereon before a public hearing is scheduled by the Town Board. The Planning Board shall submit its report and recommendation to the Town Board not more than 30 days after the first meeting of the Planning Board held subsequent to such referral unless, before the expiration of such 30 day period, such proposal is withdrawn or amended or the Planning Board determines that, by reason of the complexity of the questions presented, an additional period of time, not exceeding 30 days, is reasonably required for the proper consideration thereof. If the Planning board shall not have submitted its report and recommendation within such 30 days after its meeting or such requested additional period of not more than 30 days, the Town Board, in its discretion, may proceed to final consideration of the proposal without such report.
2. In recommending the adoption or disapproval of any proposed amendment or change, the Planning Board shall set forth its reasons for such recommendation together with any factors considered, such as changed conditions, possible questions of environmental significance and the extent to which the changes would appear to be consistent with the Town's master plan and the Town's general zoning objectives including those set forth in Section 102.

**ZONING DISTRICTS QUICK REFERENCE CHART**  
(ZQ 1-6)

**AGRICULTURAL DISTRICT (A) - PERMITTED USES**

- \* One and two family dwellings, accessory apartments.
- \* Agriculture and Customary agricultural operations and uses, subject to the following restrictions:
  - A. No building in which farm animals are kept shall be closer than 100 feet to any adjoining lot line.
  - B. No storage of manure or odor or dust-producing substance or use shall be permitted within 100 feet of any adjoining lot line.
  - C. No greenhouse heating plant shall be operated within 50 feet of any adjoining lot line.

**AGRICULTURAL DISTRICT (A) - SPECIAL USES**

- \* Accessory Apartment (Separate Building)
- \* Agribusiness
- \* Airports
- \* Animal Hospitals
- \* Animal Husbandry involving the housing of animals or storage of odor or dust producing substances less than 100 feet from a lot line when adjoining area is unimproved.
- \* Bed-And-Breakfast Establishment
- \* Campgrounds; Seasonal Tent, Trailer or Recreational Vehicle Camp
- \* Cemeteries
- \* Clubs
- \* Day Care Centers
- \* Essential Services
- \* Farm Labor Camps
- \* Fur Farms
- \* Golf Course
- \* Home Business
- \* Home Occupation
- \* Home Professional Offices
- \* Industrial Agricultural Enterprise
- \* Industrial Poultry Farm
- \* Kennels
- \* Livery and Commercial Stable (25 or more horses)
- \* Mobile Home Parks

- \* Mobile homes on a farm premises of less than 50 acres when occupied by residents whose prime employment is on the premises, and their families.
- \* Motor Vehicle/Heavy Equipment Repair Shops
- \* Multiple Family Dwellings
- \* Personal Wireless Telecommunications Service Facilities
- \* Permanent Roadside Stands
- \* Pig Farms
- \* Public and Semi-public Buildings and Grounds
- \* Public Utilities; Public Utility Substations
- \* Shop for Custom Work
- \* Other uses which in the opinion of the Zoning Board of Appeals are similar in nature to the above listed uses.

ONE AND TWO FAMILY RESIDENTIAL DISTRICT (R)  
PERMITTED USES

- \* Accessory Apartment
- \* Single Family Dwellings
- \* Two Family Dwellings
- \* Family Day Care Home
- \* Gardening and customary agricultural uses other than animal husbandry.
- \* Home Occupations

ONE AND TWO FAMILY RESIDENTIAL DISTRICT (R)  
SPECIAL USES

- \* Animal Husbandry
- \* Bed-And-Breakfast Establishment
- \* Cemeteries
- \* Clubs
- \* Day Care Centers
- \* Essential Services
- \* Golf Course
- \* Home Business
- \* Home Professional Offices
- \* Kennels
- \* Multiple Family Dwellings
- \* Planned Residential Development
- \* Public and Semi-Public Buildings and Grounds
- \* Public Utilities
- \* Personal Wireless Telecommunications Service Facilities
- \* Permanent Roadside Stands
- \* Seasonal Roadside Stands
- \* Shops for Custom Work

- \* Motor Vehicle/Heavy Equipment Repair Shops
- \* Other uses which in the opinion of the Zoning Board of Appeals are similar in nature to the above listed uses.

MULTIPLE FAMILY RESIDENTIAL DISTRICT (MR)  
PERMITTED USES

- \* One Family Dwellings
- \* Two Family Dwellings
- \* Multiple Family Dwellings
- \* Family Day Care Homes
- \* Gardening and customary agricultural uses other than animal husbandry.
- \* Home Occupations
- \* Rooming Houses; Lodging Houses

MULTIPLE FAMILY RESIDENTIAL DISTRICT (MR)  
SPECIAL USES

- \* Animal Husbandry
- \* Bed-And-Breakfast Establishment
- \* Clubs
- \* Day Care Centers
- \* Essential Services
- \* Home Business
- \* Home Professional Offices
- \* Planned Residential Development
- \* Public and Semi-Public Buildings and Grounds
- \* Public Utilities
- \* Shops For Custom Work
- \* Other uses which in the opinion of the Zoning Board of Appeals are similar in nature to the above listed uses.

BUSINESS DISTRICT (B)  
PERMITTED USES

- \* Animal Hospitals
- \* Automobile Sales
- \* Convenience Businesses; Mini-Marts
- \* Family Day Care Homes
- \* Home Business
- \* Home Occupation
- \* Home Professional Offices
- \* Motor Vehicle/Heavy Equipment Repair Shops

- \* Nursing Homes
- \* Retail Gasoline Station or Outlet
- \* Shops For Custom Work
- \* Other uses which in the opinion of the Zoning Board of Appeals are similar in nature to the above listed uses.

BUSINESS DISTRICT (B)  
SPECIAL USES

- \* Agribusiness
- \* Amusement Centers
- \* Animal Husbandry
- \* Automobile Laundry
- \* Bed-And-Breakfast Establishment
- \* Clubs
- \* Day Care and Nursery Schools
- \* Essential Services
- \* Lodging House; Rooming House
- \* Motels and Hotels
- \* Multiple Family Dwellings
- \* Public and Semi-Public Buildings and Grounds
- \* Public Utilities
- \* Other uses which in the opinion of the Zoning Board of Appeals are similar in nature to the above listed uses.

LIGHT INDUSTRIAL (LI)  
PERMITTED USES

- \* All those uses permitted as of right in the Business District subject to the regulations applicable to the B district.
  - \* Research institutes and laboratories.
  - \* Scientific research or experimental development of materials, methods or products, including engineering and agricultural research, processing and fabrication incidental thereto.
  - \* Manufacture or assembly of electric, electronic or optical instruments or devices.
  - \* Light manufacturing, assembling, fabricating or packaging of products from previously prepared materials.
  - \* Precision machinery; tool and die work.

- \* Office buildings for executive engineering and administrative purposes.
- \* Farm and garden implement stores.
- \* Truck garden nursery; farm produce sales.
- \* Administrative, educational and other related activities and facilities in conjunction with a permitted use.
- \* Other non-nuisance uses which, in the opinion of the Zoning Board of Appeals, are similar in nature and scale to those permitted above.

LIGHT INDUSTRIAL (LI)  
SPECIAL USES

- \* All those uses requiring a special use permit in the Business District.

GENERAL INDUSTRIAL (GI)  
PERMITTED USES

- \* Any use of an industrial or agri-industrial nature (unless listed below at Section 564) which is not detrimental to the environment, not inherently unsanitary, not a menace to the public health, not a nuisance in law or in fact, and which is not noxious or offensive by reason of the emission of odor, dust, smoke, gas, fumes or unusual, continuous or vexatious noise.

The following are indicative of the uses intended to be permitted:

- (a) Machinery manufacture;
- (b) Fabrication of metal products;
- (c) Fabrication of paper products;
- (d) Fabrication of wood products;
- (e) Food and associated industries;
- (f) The warehousing or storage of goods and products such as building materials and farm supplies.
- (g) Automobile Sales
  - \* Customary agricultural operations.
  - \* Essential services.
  - \* Terminal facilities for transportation services.
  - \* Laundries, dry cleaning and dyeing services.

GENERAL INDUSTRIAL (GI)  
SPECIAL USES

- \* Bulk storage of agricultural fertilizers
- \* Bulk storage of fuel and petroleum products
- \* Bulk storage of toxic chemicals
- \* Automobile Wrecking Operation
- \* Automobile Junkyards; other junk yards
- \* Animal Sales Lots
- \* Telecommunications Towers and Wireless Facilities
- \* Other uses which in the opinion of the Zoning Board of Appeals is similar in nature to the above listed uses.

# Municipality OF ROYALTON ZONING ORDINANCE AMENDMENTS

3/13/2000: **SECTION 708, EXCAVATION AND MINING**, paragraph added,

“This prohibition shall not apply to soil that is excavated by the Town as part of its Town ditching program. Soil associated with said program may be removed only by permit. The Zoning Board of Appeals may issue a special permit after considering public safety issues such as damage to Town and County roads, bonding and hauling permits from the Town Highway Superintendent.”

4/09/2001: **MAP AMENDMENT**. PART OF PARCEL #142.00-1-59.2, JAN SCHAFER, OWNER. 280.92’ FRONTAGE X 515.40’ NORTH PROPERTY LINE, REZONED TO BUSINESS USE. PROPERTY IS PART OF 10.28 ACRE PARCEL. ADDRESS: 6189 ROYALTON CENTER RD.

11/11/2002: **MAP AMENDMENT**. PARCEL #97.12-2-1, 8407 STATE ST., MILNE MFG., OWNER. ENTIRE PARCEL REZONED FROM RESIDENTIAL TO LIGHT INDUSTRIAL.

11/10/2003: **MAP AMENDMENT**. PARCEL #97.03-2-1.2, 7641 ROCHESTER RD., ROSA C. UBILES, OWNER. ENTIRE PARCEL REZONED FROM BUSINESS TO RESIDENTIAL.

12/08/2003: **ORDINANCE AMENDMENTS**

A) Section 504 - Uses Requiring a Special Use Permit (Subject to Special Use Permit Regulations and Procedures) in an Agricultural District, shall be amended by deleting the following uses, namely:

*Home Occupation*

*Home Professional Office*

B) Section 504, shall be further amended by revising the use “*Permanent Roadside Stands*” to include the phrase “*(with on site agricultural operations)*”.

C) Section 514 - Uses Requiring a Special Use Permit (Subject to Special Use Permit Regulations and Procedures) in a One and Two Family Residential District (R), shall be amended by adding the following use, namely:

*Airports*

*Campgrounds, Seasonal Tent, Trailer or Recreational Vehicle*

*Camp*

*Farm Labor Camps*

*Fur Farms*

*Industrial Agricultural Enterprise*

*Industrial Poultry Farm*

*Mobile Home Parks*

*Mobile homes on a farm premises of less than 50 acres when occupied by residents whose prime employment is on premises, and their families*

- D) Section 514, shall be further amended by revising the use “*Animal Husbandry*” by adding “*involving the housing of animals or storage of odor or dust producing substances less than 100 feet from a lot line when adjoining area is unimproved.*”
- E) Section 514, shall be further amended by deleting the use “*Home Professional Office*” after the use “*Home Business*”.
- F) Section 514, shall be further amended by revising the use “*Permanent Roadside Stands*” by adding “*(with on site agricultural operations)*”.

5/10/2004: **MAP AMENDMENT.** PARCEL #98.00-1-73.11 AND 98.00-1-73.2, MILTON & RUTH MURRAY, OWNERS, 8689 ROCHESTER RD.. BOTH PARCELS REZONED FROM RESIDENTIAL/AGRICULTURAL TO GENERAL INDUSTRIAL.

5/10/2004: **MAP AMENDMENT.** PARCEL #85.00-3-13.1, ENZIO & CATHERINE DORAZIO, OWNERS, 9723 ROCHESTER RD.. ENTIRE PARCEL REZONED FROM RESIDENTIAL/AGRICULTURAL TO LIGHT INDUSTRIAL.

5/16/2005: **MAP AMENDMENT.** PART OF PARCEL #97.00-2-18, BARDEN & ROBESON CORP., OWNERS, ROCHESTER RD., HAMLET OF GASPORT. PARCEL REZONED FROM RESIDENTIAL TO BUSINESS. ALL THAT TRACT OR PARCEL OF LAND, SITUATE IN THE TOWN OF ROYALTON, COUNTY OF NIAGARA AND STATE OF NEW YORK BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ALONG THE SOUTH HIGHWAY LINE OF ROUTE 31 S.H. 8451 SOME 597.31 FEET WEST OF ITS INTERSECTION WITH THE CENTERLINE OF GASPORT ROAD C.R. 10 (NORTHWEST CORNER OF PROPERTY OF REPUTED OWNER DONALD G. VOELKER); THENCE S 00 DEGREES 52 MINUTES 50 SECONDS E A DISTANCE OF 312.18 FEET TO A POINT; THENCE S 77 DEGREES 57 MINUTES 18 SECONDS W A DISTANCE OF 756 FEET TO A POINT; THENCE N 00 DEGREES 18 MINUTES 11 SECONDS W A DISTANCE OF 425.13 FEET TO A POINT; THENCE NORTHEASTERLY A DISTANCE OF 740.86 FEET ALONG A CURVE WITH A RADIUS OF 2505.70 FEET AND A DELTA OF 16 DEGREES 56 MINUTES 26 SECONDS TO THE POINT OR PLACE OF BEGINNING.

10/23/2006: **MAP AMENDMENT.** PART OF PARCEL #142.00-1-38, BRADLEY L. & VICKY L. REHWALDT, OWNERS, WOLCOTTSVILLE RD.. PORTION OF PARCEL REZONED FROM BUSINESS TO RESIDENTIAL. ALL THAT TRACT OR PAREL OF LAND, SITUATE IN THE TOWN OF ROYALTON, COUNTY OF NIAGARA AND STATE OF NEW YORK BEING PART OF LOT 54, TOWNSHIP 13, RANGE 5 OF THE HOLLAND LAND SURVEY (SO-CALLED) BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE CENTERLINE OF WOLCOTTSVILLE ROAD (WOLCOTTSVILLE ROAD BEING 66.0 FEET WIDE) WITH NORTHERLY LINE OF LANDS CONVEYED TO BRADLEY L. AND VICKY L. REHWALDT BY DEED RECORDED IN LIBER 2767 OF DEEDS AT PAGE 177;

THENCE: S-03 DEG.-12'-16"-E, ALONG CENTERLINE OF WOLCOTTSVILLE ROAD, A DISTANCE OF 378.06' TO A SOUTHERLY LINE OF REHWALDT LANDS;

THENCE: N-86 DEG.-38'-53"W, ALONG A SOUTHERLY LINE OF REHWALDT LANDS, A DISTANCE OF 233.13' TO AN EASTERLY LINE THEREOF;

THENCE: S-03 DEG.-12'-16"-E ALONG AN EASTERLY LINE OF SAID REHWALDT LANDS, A DISTANCE OF 18.00' TO THE MOST SOUTHERLY LINE THEREOF;

THENCE: N-86 DEG.-38'-53"W, ALONG THE MOST SOUTHERLY LINE OF SAID REHWALDT LANDS, A DISTANCE OF 966.87' TO A POINT;

THENCE: N-03 DEG.-12'-16"W, PARALLEL WITH THE CENTERLINE OF WOLCOTTSVILLE RD., THROUGH SAID REHWALDT LANDS, A DISTANCE OF 398.04' TO THE NORTHERLY LINE THEREOF;

THENCE: S-86 DEG.-33'-15"E, ALONG THE NORTHERLY LINE OF SAID REHWALDT LANDS, A DISTANCE OF 1,200.23' TO THE POINT OR PLACE OF BEGINNING CONTAINING 10.771 ACRES BE THE SAME MORE OR LESS.

03/10/2008: **MAP AMENDMENT.** PARCEL #140.00-1-54.2, DAVID L. & MARY E. LEEDS, OWNERS, 7551 DYSINGER RD.. ENTIRE PARCEL REZONED FROM RESIDENTIAL/AGRICULTURAL TO BUSINESS. ALL THAT TRACT OF LAND, SITUATE IN THE TOWN OF ROYALTON, COUNTY OF NIAGARA AND STATE OF NEW YORK BEING PART OF LOT 5, TOWNSHIP 14, RANGE 6 OF THE HOLLAND LAND PURCHASE, SO-CALLED, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE CENTER LINE OF THE NEW DYSINGER ROAD WITH THE EAST LINE OF LAND CONVEYED TO LARUE CONFER AND EVELYN, HIS WIFE, BY DEED RECORDED IN NIAGARA COUNTY CLERK'S OFFICE IN LIBER 1402 OF DEEDS, PAGE 325. CONFER'S SAID EAST LINE BEING PARALLEL WITH THE WEST LINE OF SAID LOT 5 AND 17 CHAINS 38 LINKS EAST THEREFROM; THENCE NORTH ALONG SAID CONFER EAST LINE, 901 FEET; THENCE WEST PARALLEL WITH THE CENTER LINE OF THE NEW DYSINGER ROAD (ALSO ALONG CENTER LINE OF A DITCH), 150 FEET; THENCE SOUTH PARALLEL WITH THE EAST LINE OF THE PROPERTY HEREIN DESCRIBED, 901 FEET TO THE CENTER LINE OF THE NEW DYSINGER ROAD; THENCE EAST ALONG THE CENTER LINE OF THE NEW DYSINGER ROAD, 150 FEET TO THE POINT OF BEGINNING CONTAINING 3 ACRES OF LAND, BE THE SAME MORE OR LESS.

11/05/2008: **MAP AMENDMENT.** PARCEL #97.12-1-3, SCOTT A. GARBUTT, OWNER, 8399 STATE ST.. PARCEL REZONED FROM BUSINESS TO RESIDENTIAL. Town of Royalton, County of Niagara and State of New York being part of Lot 9, Section 16, Township 14, Range 5 of the Holland Land Company's Land, so-called, bounded **ALL THAT TRACT OR PARCEL OF LAND**, situate in the and described as follows:

**BEGINNING** at the point in the center line of the Telegraph Road or State Road, so called, 123.6 feet easterly measured along the center line of the said Telegraph Road from the intersection of the center line of the said Telegraph Road and the center line of the Gasport-Hartland Corners Road, and which point is also the southeast corner of lands heretofore conveyed by Ruth E. Spears, as Executrix, to Clifford Smalley and Mary Smalley, his wife, thence easterly along the center line of said Telegraph Road or State Road a distance of 68 feet; thence northerly on an interior angle of 100° 54', and along the westerly line of lands conveyed to Gasport Memorial Post No. 1253 by deed recorded in the Niagara County Clerk's Office on July 2, 1946 in Liber 829 of Deeds at page 188 a distance of 86.6 feet to the Blue Line of the Erie Barge Canal; thence westerly on a line parallel to the center line of the Telegraph or State Road a distance of 68 feet; thence southerly on a line parallel to the west line of Lot 9, Section 16, Township 14 and Range 5, a distance of 86.6 feet to the point or place of beginning, be the same more or less.

**REFERENCE** being particularly made to two certain surveys, one by Julius Frehsee, Surveyor, dated June 1, 1944, for the Clyde D. Spears estate, and the second made by Leon H. Wendel, C.E., dated November 14, 1945, for Jay S. Pease. See Book 29 of Microfilmed Maps, page 2817.

**ALSO CONVEYING ALL THAT TRACT OR PARCEL OF LAND**, situate in the Village of Gasport, Town of Royalton, County of Niagara and State of New York, and being part of Lot 9, Section 16, Township 14 and Range 5 of the Holland Purchase, bounded and described as follows:

**BEGINNING** at the southwest corner of land conveyed by Jay S. Pease to Gasport Memorial Post No. 1253 of the American Legion, Inc. by deed recorded July 2, 1946 in Liber 829 of Deeds at page 188 and running thence north along the west line thereof, 59.95 feet to a point; thence south 58.96 feet to a point in the south line of said land which is 9.26 feet east of the point of beginning; thence west along the south line (which is also the center line of the State Road) 9.26 feet to the point of beginning, being and intended to be a triangular piece of land.

**EXCEPTING AND RESERVING ALL THAT TRACT OR PARCEL OF LAND**, situate in the Village of Gasport, Town of Royalton, County of Niagara and State of New York, and being part of Lot 9, Section 16, Township 14 and Range 5 of the Holland Purchase, bounded and described as follows:

**BEGINNING** at a point in the east line of land conveyed by Ruth E. Spears as Executor of the Will of Clyde D. Spears to Catherine A. Herl and her husband by a deed recorded on January 24, 1950 in Liber 975 of Deeds at page 228, which is 59.95 feet northerly of the southeast corner thereof (measured along said east line) and running thence north along said east line 26.6 feet to the northeast corner thereof, thence west along the north line of land conveyed to said Catherine A. Herl as aforesaid, 3 feet 9 inches to a point; thence southerly 25.95 feet to the point of beginning, being and intended to be a triangular piece of land.