

Town of Pomfret Zoning Code

Chapter 300: Zoning

May 2025



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Article 1

Title, Purpose and Application

300-1-1. Title

A local law regulating the location, construction and use of buildings and structures and the use of land in the Town of Pomfret, County of Chautauqua, State of New York, and for said purposes dividing the Town into districts. This Chapter shall be known and cited as the “Zoning Law of the Town of Pomfret.”

300-1-2. Enacting Clause

Pursuant to the authority conferred by the Laws of the State of New York and for each of the purposes specified therein, the Town Board of the Town of Pomfret, County of Chautauqua and the State of New York, has ordained and does hereby enact the following chapter regulating and restricting the location, size and use of buildings and other structures, and the use of land in the municipality.

300-1-3. Application of Regulations

- A. Compliance responsibility. It shall be the responsibility of all property owners, developers, lessors, or others involved with the temporary or permanent use of land or structures to comply with the regulations of this Zoning Chapter. No buildings or structures shall be erected or altered which will substantially limit the usefulness or depreciate the value of the surrounding property.
- B. Regulation responsibility. The regulations of this chapter shall apply and shall require a zoning permit (except as specifically exempted) for the following situations:
 - 1. To occupy a structure or land;
 - 2. To erect, alter, enlarge, move or demolish a structure; and
 - 3. To change one use to another use to include the increasing of families utilizing land or structures.
- C. Other related regulations. The following regulations shall, as applicable, be complied with prior to occupancy or where specifically stated prior to issuance of a zoning permit:
 - 1. Subdivision laws. State and existing local subdivision laws must be complied with in addition to this Zoning Chapter;
 - 2. National Flood Insurance Program. It shall be the responsibility of the applicant for a zoning/building permit to ensure the National Flood Insurance regulations in addition to zoning regulations shall be complied with for those parcels located within the floodplain as shown on official Flood Insurance Administration maps;
 - 3. State Environmental Quality Review Act. Any development requiring a discretionary permit as well as amendments to this chapter shall be subject to an environmental assessment in accordance with state law.

4. Health Department rules. In areas not served by municipal sewer or water systems, the regulations of the state and county and local facilities will apply. The applicant for a building or zoning permit must obtain and submit a copy of the required Health Department permits before the issuance of local approval; and
5. Fire and Building Code. No structure shall be erected, altered or used unless it complies, where applicable, with the New York State Uniform Fire Prevention and Building Code. The Code Enforcement Officer shall be sent copies of all zoning permits.
6. Lots in Two Districts. Where a district boundary divides a parcel at the time of enactment of this Chapter, the regulations for the district shall conform to the district boundary map. A use variance may be requested in accordance with Article VII, Administration & Enforcement.
7. All crop production and the keeping of animals including the containment of livestock and fencing shall be in accordance with all provisions of the New York State Agriculture and Market Laws.

300-1-4. Agricultural District Protections

Unless it is shown that public health or safety is threatened otherwise, none of the regulations contained in this Chapter shall be construed, interpreted or imposed by the reviewing board or official in such a way as to unreasonably restrict/restrain those farms or farm operations located in a State Certified Agricultural District approved pursuant to New York State Agriculture and Markets Law Article 25-AA. In instances where health or safety has been identified as being threatened by such use, these regulations shall be applicable per law, subject to review by the Department of Agriculture and Markets. By way of example and without limitation, the requirements for a special permit for a particular farm operation use for an additional accessory building may be reviewed by the farmer with the Zoning Officer and/or Zoning Board of Appeals, or discussed with the Department of Agriculture and Markets. Pursuant to the existing provisions of the New York State Agriculture and Markets Law (including § 305-a) farm operations located within a State Certified Agricultural District may have certain protections from Zoning laws that unreasonably restrict farm practices. In such instances, while the term of this Chapter may prohibit or regulate certain activities or uses, any individual farm operation owner may review such proposed prohibition or regulation with the Town's Zoning Enforcement Officer to determine if such request is unreasonably restrictive. Further, the farm operation may, pursuant to New York State Agriculture and Markets Law §305-a, seek a review of the provisions of this Chapter from the New York State Department of Agriculture and Markets for a determination of the applicability of the regulation or restriction.

Article 2

Establishment of Districts

300-2-1. Creation and Enumeration of Districts

For the purposes of this Chapter, the Town of Pomfret is hereby divided into or overlaid by the following districts, which are sometimes referred to in this Chapter by the abbreviations indicated:

Districts Established	Abbreviations
Agricultural	AG
Conservation and Open Space	COS
Rural Residential	RR
Neighborhood Residential	NR
Lakeside Residential	LR
Mixed-use Hamlet	MUH
Mixed-use Corridor	MUC
Employment Centers	EC

300-2-2. Zoning Map

The boundaries of the aforesaid zoning districts are hereby established shown on the map entitled “Zoning District Map of the Town of Pomfret, New York,” which map accompanies and is made a part of this chapter and shall have the same force and effect as if the Zoning Map, together with all notations, references and other information shown thereon, were fully set forth and described herein.

The boundary for the Mixed-use Corridor (MUC) district shall be established for land within 500 feet of identified corridors including US Route 20 and NYS Route 60 in the Town of Pomfret. Land included within the MUC district is detailed further on the Town’s official Zoning Map.

300-2-3. Interpretation of District Boundaries

When uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Town's Official Zoning Map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines shall be construed to be such boundaries;
- B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries;
- C. Where district boundaries are so indicated that they are approximately parallel to the center lines, or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map;
- D. Where the boundary of a district follows a stream, lake or other body of water, said boundary line shall be deemed to be at the limit of jurisdiction of the municipality unless otherwise indicated;
- E. Distances which are shown for the MUC District on the Zoning Map shall be interpreted as perpendicular distances from road centerlines measured to the district's boundary at a distance of 500 feet in either direction.
- F. Any flood boundary shown on the Zoning Map indicates general location only. The precise location of floodplain boundaries shall be established by the Enforcement Officer after consulting with the Chautauqua County Planning Department; and
- G. Any party aggrieved by an interpretation may appeal to the Zoning Board of Appeals, whose decision will be final. However, all decisions of the Zoning Board of Appeals are subject to court reviews in accordance with applicable laws of the State of New York. The burden of proof shall be on the appellant

District Regulations

§ 300-3-1 | Agricultural District (AG)

A. Purpose

The Agricultural District (AG) is established to provide a compatible mix of agricultural and residential uses. Most of the land in this district is either active farmland or land that is agricultural in character. Residential uses in this district should be mostly comprised of homes on large lots that front major corridors to help preserve the rural and natural character of the district to the extent practicable. Open space and some recreational land uses should also be permitted in the district.

B. Lot Requirements



LOT AREA AND COVERAGE

①	Lot area (min)	2 acres ¹
②	Lot width (min)	200 ft
③	Lot coverage (max)	30% ²

1 Single-unit homes shall locate on a lot of at least 20,000 sf.

2 Includes accessory structures.

YARD SETBACKS

④	Primary street yard	100 ft
⑤	Secondary street yard setback (min)	20 ft
⑥	Side yard setback (min)	10 ft
⑦	Rear yard setback (min)	25 ft

HEIGHT

⑧	Primary building height [max]	35 ft
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300-3-2 | Conservation and Open Space (COS)

A. Purpose

The Conservation and Open Space District (COS) is intended to protect and preserve natural features including forested land, open space, watersheds, water bodies and wetlands. Parks and recreation facilities should be permitted within this district, but other - and more intense - development should be limited and restricted. Principal uses requiring structures should not be permitted, but accessory uses and structures may be permitted for park and/or recreation facilities.

B. Lots Requirements



LOT AREA AND COVERAGE

①	Lot area (min)	2 acres
②	Lot width (min)	100 ft
③	Lot coverage (max)	10%

YARD SETBACKS

④	Primary street yard	100 ft
⑤	Secondary street yard setback (min)	20 ft
⑥	Side yard setback (min)	10 ft
⑦	Rear yard setback (min)	25 ft

DRIVEWAY

⑧	Driveway width (max)	20 ft
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HEIGHT

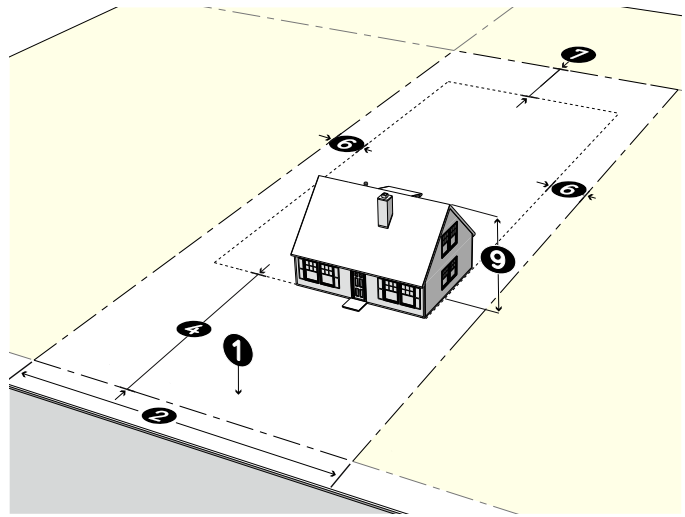
⑨	Primary building height [max]	N/A
⑩	Accessory building / structure (max)	25 ft

300-3-3 | Rural Residential (RR)

A. Purpose

The Rural Residential (RR) District is intended to provide a mix of agricultural and residential uses. Land in this district is farther from denser population centers and includes a variety of farmland and agricultural uses on prime soils. Residential development in this district should be limited to single-unit homes and residential development that is compatible with agricultural land uses. This can include both larger residential lots and cluster residential development that preserves existing farmland and open space.

B. Lots Requirements



LOT AREA AND COVERAGE

①	Lot area (min)	20,000 sf
②	Lot width (min)	75 ft
③	Lot coverage (max)	30% ¹

1 Includes accessory structures.

YARD SETBACKS

④	Primary street yard	50 ft
⑤	Secondary street yard setback (min)	20 ft
⑥	Side yard setback (min)	10 ft
⑦	Rear yard setback (min)	25 ft

DRIVEWAY

⑧	Driveway width (max)	20 ft
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HEIGHT

⑨	Primary building height [max]	35 ft
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ENTRANCE

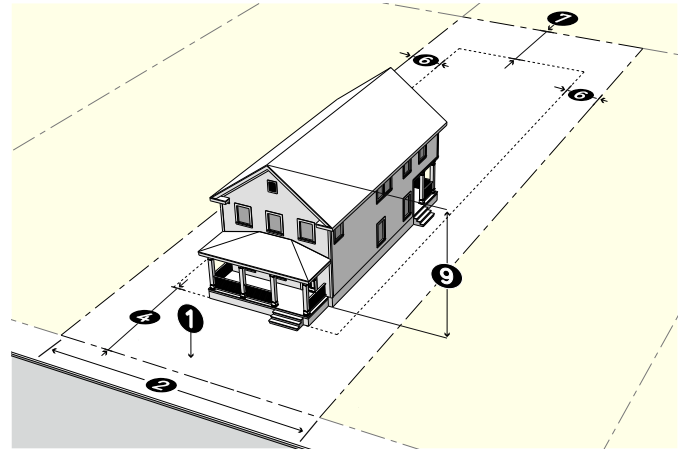
⑩	Primary street facing entrance	Required
⑪	Porch or portico	Encouraged

300-3-4 | Neighborhood Residential (NR)

A. Purpose

The Neighborhood Residential (NR) District is intended to provide a wider mix of housing options in Pomfret, including single-unit, two-unit, multi-unit and cluster residential uses. This district should also provide a comfortable transition to adjacent Hamlets and the Village of Fredonia. As such, new development should encourage design components that reflect traditional neighborhood character including connected residential streets, pedestrian facilities, and an efficient use of existing infrastructure systems. These districts should still be permissive of agricultural uses, while remaining residential in nature. Most residential development in these districts should occur on smaller lots and along major corridors to best preserve existing farmland and agricultural land.

B. Lot Requirements



LOT AREA AND COVERAGE

①	Lot area (min)	10,000 sf
②	Lot width (min)	50 ft
③	Lot coverage (max)	30% ¹

¹ Includes accessory structures.

YARD SETBACKS

④	Primary street yard	25 ft
⑤	Secondary street yard setback (min)	20 ft ¹
⑥	Side yard setback (min)	10 ft ¹
⑦	Rear yard setback (min)	25 ft

¹ For lots with a width 50 feet or less, side yard setbacks shall not be required.

DRIVEWAY

⑧	Driveway width (max)	25 ft
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HEIGHT

⑨	Primary building height [max]	35 ft
⑩	Accessory building / structure	25 ft

ENTRANCE

⑪	Primary street facing entrance	Required
⑫	Porch or portico	Encouraged
⑬	Sidewalk to public sidewalk	Required

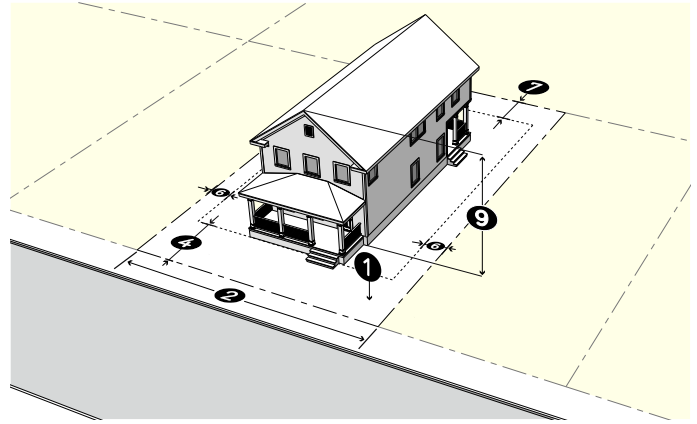
300-3-5 | Lakeside Residential (LR)

A. Purpose

The Lakeside Residential (LR) District is established to include residential uses that are mostly single-unit or two-unit homes that capitalize on lake views and proximity. In addition to single-unit and two-unit residential uses, this district also permits other mixed uses including both water-dependent and water-enhanced uses such as bed-and-breakfasts, cafes, and boat and small craft launches.

There are three sub-districts within LR which are specific to Van Buren, Bear Lake and Lily Dale. Each of these may differ in dimensional requirements as well as permitted and prohibited land uses.

B. Lot Requirements - Van Buren



LOT AREA AND COVERAGE

①	Lot area (min)	5,000 sf
②	Lot width (min)	40 ft
③	Lot coverage (max)	50% ¹

1 Includes accessory structures.

YARD SETBACKS

④	Primary street yard	15 ft
⑤	Secondary street yard setback (min)	15 ft ¹
⑥	Side yard setback (min)	5 ft ¹
⑦	Rear yard setback (min)	10 ft

1 For lots with a width 50 feet or less, side yard setbacks shall not be required.

DRIVEWAY

⑧	Driveway width (max)	20 ft
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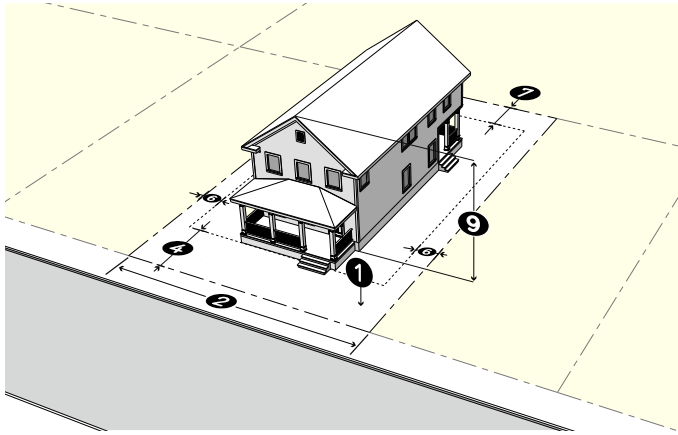
HEIGHT

⑨	Primary building height [max]	35 ft
⑩	Accessory building / structure	25 ft

ENTRANCE

⑪	Primary street facing entrance	Required
⑫	Porch or portico	Encouraged
⑬	Sidewalk to public sidewalk	Required

C. Lot Requirements - Bear Lake



LOT AREA AND COVERAGE

①	Lot area (min)	5,000 sf
②	Lot width (min)	50 ft
③	Lot coverage (max)	50% ¹

1 Includes accessory structures.

YARD SETBACKS

④	Primary street yard	25 ft
⑤	Secondary street yard setback (min)	15 ft ¹
⑥	Side yard setback (min)	5 ft ¹
⑦	Rear yard setback (min)	10 ft

1 For lots with a width 50 feet or less, side yard setbacks shall not be required.

DRIVEWAY

⑧	Driveway width (max)	20 ft
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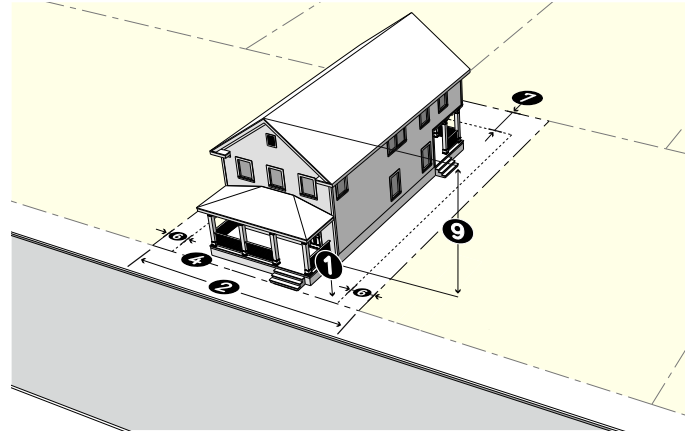
HEIGHT

⑨	Primary building height [max]	35 ft
⑩	Accessory building / structure	25 ft

ENTRANCE

⑪	Primary street facing entrance	Required
⑫	Porch or portico	Encouraged
⑬	Sidewalk to public sidewalk	Required

D. Lot Requirements - Lily Dale



LOT AREA AND COVERAGE

①	Lot area (min)	2,500 sf
②	Lot width (min)	30 ft
③	Lot coverage (max)	70% ¹

1 Includes accessory structures.

YARD SETBACKS

④	Primary street yard	5 ft
⑤	Secondary street yard setback (min)	10 ft ¹
⑥	Side yard setback (min)	5 ft ¹
⑦	Rear yard setback (min)	10 ft

1 For lots with a width 50 feet or less, side yard setbacks shall not be required.

DRIVEWAY

⑧	Driveway width (max)	20 ft
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HEIGHT

⑨	Primary building height [max]	35 ft
⑩	Accessory building / structure	25 ft

ENTRANCE

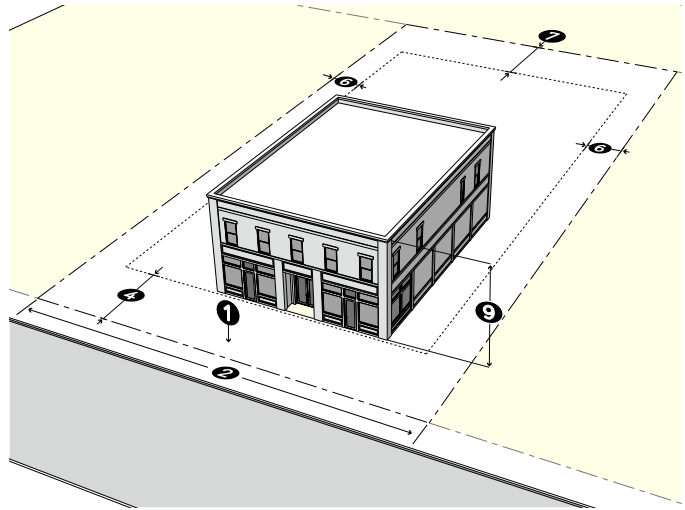
⑪	Primary street facing entrance	Required
⑫	Porch or portico	Encouraged
⑬	Sidewalk to public sidewalk	Required

300-3-6 | Mixed-use Corridor (MUC)

A. Purpose

The purpose of the Mixed-use Corridor (MUC) District is to provide a mix of retail, service, professional office, and other uses in and around several important corridors in the Town. The design and character of these districts should encourage multimodal connectivity and safety for all users, including pedestrians, bicyclists and motorists. Design considerations should also reflect and complement existing agricultural uses and rural character.

B. Lot Requirements



LOT AREA AND COVERAGE

①	Lot area (min)	20,000 sf
②	Lot width (min)	100 ft
③	Lot coverage (max)	60% ¹

1 Includes accessory structures.

YARD SETBACKS

④	Primary street yard setback (min/ max)	20/50 ft
⑤	Secondary street yard setback (min)	20 ft
⑥	Side yard setback (min)	10 ft
⑦	Rear yard setback (min)	25 ft

DRIVEWAY

⑧	Driveway width (max)	N/A
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HEIGHT

⑨	Primary building height [max]	50 ft
⑩	Accessory building / structure	25 ft

ENTRANCE

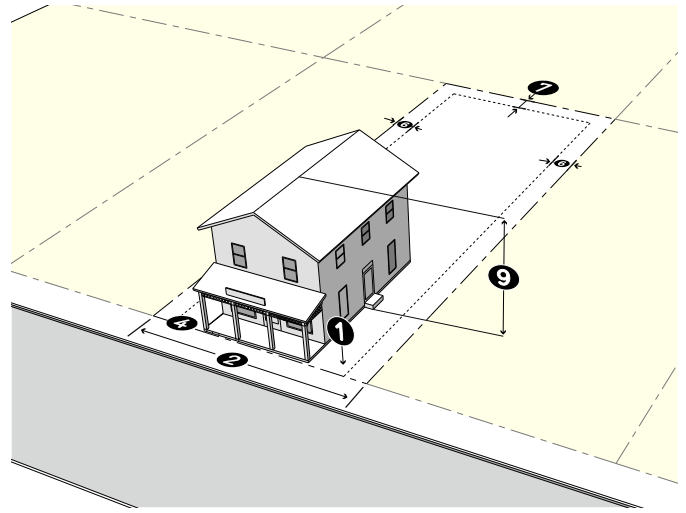
⑪	Primary street facing entrance	Required
⑫	Sidewalk to public sidewalk	Encouraged

300-3-7 | Mixed-use Hamlet (MUH)

A. Purpose

The purpose of the Mixed-use Hamlet (MUH) District is to provide a mix of retail, service, residential, and other uses in and around the denser areas of the Town including in and near Laona, Lily Dale and Van Buren. The design and character of these districts should encourage pedestrian connectivity and safety.

B. Lot Requirements



LOT AREA AND COVERAGE

①	Lot area (min)	5,000 sf
②	Lot width (min)	40 ft
③	Lot coverage (max)	60% ¹

¹ Includes accessory structures.

YARD SETBACKS

④	Primary street yard	0 ft
⑤	Secondary street yard setback (min)	0 ft
⑥	Side yard setback (min)	5 ft ¹
⑦	Rear yard setback (min)	5 ft

¹ For lots with a width 50 feet or less, side yard setbacks shall not be required.

DRIVEWAY

⑧	Driveway width (max)	20 ft
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HEIGHT

⑨	Primary building height [max]	35 ft
⑩	Accessory building / structure	25 ft

ENTRANCE

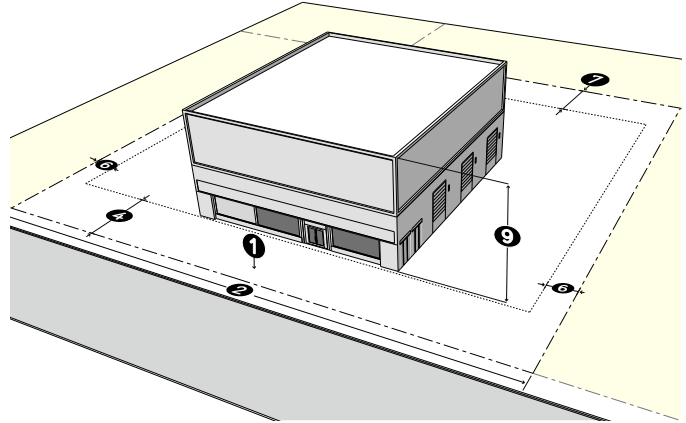
⑪	Primary street facing entrance	Required
⑫	Sidewalk to public sidewalk	Required

300-3-8 | Employment Centers (EC)

A. Purpose

The Employment Centers (EC) District is established to permit a mix of modern employment centers and large single parcel and multi-parcel development. This includes land uses related to production and manufacturing as well as warehousing and distribution centers. Sites in these districts should be able to accommodate larger structures and should include on-site pedestrian connections, landscaping and screening, and other high-quality design considerations that are typical of larger nonresidential development.

B. Lot Requirements



LOT AREA AND COVERAGE

①	Lot area (min)	40,000 sf
②	Lot width (min)	100 ft
③	Lot coverage (max)	50% ¹

1 Includes accessory structures.

YARD SETBACKS

④	Primary street yard	25 ft
⑤	Secondary street yard setback (min)	25 ft
⑥	Side yard setback (min)	10 ft
⑦	Rear yard setback (min)	25 ft

DRIVEWAY

⑧	Driveway width (max)	N/A
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HEIGHT

⑨	Primary building height [max]	50 ft
⑩	Accessory building / structure	25 ft

ENTRANCE

⑪	Primary street facing entrance	Required
⑫	Sidewalk to public sidewalk	Encouraged

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300-3-9. Applicability Table

- A. The table below applies to use and development regulations based on the type of development activity that is proposed. Typically, more than one development activity will apply (for example, an expansion of an existing use may include both an addition and a facade modification).
- B. This table shall apply to all zoning districts. Some development regulations may not apply to all land uses.
- C. The following shall apply to all listed use and development regulations:
 1. Regulations identified with an “X” indicate that the standards shall generally apply.
 2. Regulations identified with a “-” indicate that the standards shall not apply.
- D. Applicability Table for Uses and Development

USES AND DEVELOPMENT	New Construction	Addition	Site Modifications	Facade Modifications	Change of Use	Interior Renovation	Maintenance and Repair
Use Standards							
Use Permissions	X	X	X	-	X	-	-
Supplemental Use Standards	X	X	X	-	X	-	-
Accessory Uses and Structures	X	X	X	-	X	-	-
Development Standards							
Off-street Parking	X	X	X	-	X	-	-
Loading and Unloading	X	X	X	X	-	-	-
Fences and Walls	X	-	X	X	-	-	-
Buffering and Screening	X	X	X	-	-	-	-
Signs	X	-	X	X	X	-	-

300-3-10. Applicability Table Terms

- A. New Construction - Any activity that includes the construction of a new building or structure.
- B. Addition - Any substantial expansion or enlargement of an existing building or structure. This includes activity that increases the floor area or the height of an enclosed space within an existing building.
- C. Site Modification - Any substantial modification to a site including landscaping, trees, fences, walls, lighting, grading, flatwork, and parking lots.
- D. Facade Modification - Any substantial change to the exterior of a building. This includes changes to any of the following: the facade of a building; the amount of exterior foundation wall that is exposed above finished grade; or an architectural element attached to a facade.
- E. Change of Use - A change in use or a modification of an area designed and intended for a specific use from the previously approved use. This includes a change in the principal use of any portion of a building, site or lot from one of the uses specified in 300-4-3. Any work undertaken in connection with a change in use that does not involve a change of occupancy classification or a change to another group within an occupancy classification shall conform to all other relevant building and municipal codes.
- F. Renovation - A renovation shall include any construction to an existing structure other than a repair or an addition. This shall include modification of the interior of any building or structure that does not expand the building or structure, but includes more than 50% of the floor area of any story of the structure. This does not include interior modifications to meet fire, life safety, and handicapped requirements, regardless of the amount of floor area included. This does include any other change that goes beyond the definition of maintenance and repair.
- G. Maintenance and Repair - Activity done to correct the deterioration, decay of, or damage to, any part of a building, structure, or lot, that does not involve a change or modification of the existing design, outward appearance of applicable zoning requirements. In-kind replacement of deteriorated or damaged parts of a building is considered maintenance and repair. Maintenance and repair includes repair of site components such as parking lots or landscaping and can include the reconstruction, replacement, or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.

Article 4

Uses and Supplemental Regulations

300-4-1. Use Regulations

- A. The following shall apply to all listed permitted and specially permitted uses:
1. Uses are allowed in each district according to the tables shown on the page 19.
 2. Uses identified with “P” in the table are permitted as-of-right in the subject zoning district, subject to compliance with all other applicable standards of this zoning Chapter.
 3. Uses identified with “SP” in the table may be allowed if reviewed and approved in accordance with the special use permit procedures contained in Article 300-7-9 of this Chapter and shall be subject to the approval of the Zoning Board of Appeals.
 4. Alternative Energy uses which are labeled as “SP” shall be reviewed and approved by the Town Board after an initial review is conducted by the Planning Board and/or Zoning Board of Appeals.
 5. Uses not listed and those identified with “-” are expressly prohibited.
 6. Supplemental Regulations for permitted and specially permitted uses can be found in Article 300-4-4 of this Chapter.
- B. Principal uses not listed:
1. A principal use not specifically listed is prohibited unless the Zoning Officer determines the use to be part of a use category listed in the table. If a proposed use is not listed in a use category, but is similar to a listed use, the Zoning Enforcement Officer may consider the proposed use part of that use category. Where a use not listed is found by the Zoning Enforcement Officer not to be similar to any other permitted use, the use is only permitted following a text amendment. For criteria, see Article 300-4-2 of this Chapter.

300-4-2. Criteria for Uses Not Listed

- A. When determining whether a proposed use is similar to a listed use, the Zoning Enforcement Officer must consider the following criteria:
1. Actual or projected characteristics of the proposed use;
 2. Amount of site area or floor area and equipment devoted to the proposed use;
 3. Amounts of sales;
 4. Customer type;
 5. Number of employees;
 6. Hours of operation;
 7. Building and site arrangement;
 8. Types of vehicles used and their parking requirements;
 9. Number of vehicle trips generated;
 10. How the proposed use is advertised; and
 11. The likely impact on surrounding properties.

300-4-3. Master Use Table

TABLE OF PRINCIPAL USES	Agricultural	Rural Residential	Neighborhood Residential	Lakeside Res. - Van Buren	Lakeside Res. - Bear Lake	Lakeside Res. - Lily Dale	Conservation Open Space	Mixed-use Corridor	Mixed-use Hamlet	Employment Center	Supplemental Regulations
RESIDENTIAL USES											
Single-Unit Residential Use	P	P	P	P	P	P	P	P	P	-	
Two-Unit Residential Use	P	P	P	P	P	P	-	P	P	-	
Multi-Unit Residential Use	-	-	SP	-	-	-	-	SP	SP	-	300-4-23
Cluster Residential Use	SP	SP	SP	-	-	-	-	SP	SP	-	300-4-9
Mobile or Manufactured Home	SP	SP	SP	-	-	-	-	SP	SP	-	300-4-20
Mobile or Manufactured Home Park	SP	SP	-	-	-	-	-	SP	SP	-	300-4-21
Home Occupation	SP	SP	SP	SP	SP	SP	-	SP	SP	-	300-4-16
AGRICULTURAL USES											
Agricultural Crop Production	P	P	-	-	-	-	P	P	-	P	
Agricultural Use Structure	P	P	-	-	-	-	P	P	-	P	
Livestock & Livestock Products	P	P	-	-	-	-	P	P	-	P	
Farm Woodland	P	P	-	-	-	-	P	P	-	P	
Horticulture	P	P	-	-	-	-	P	P	-	P	
Agricultural Processing	P	P	-	-	-	-	P	SP	-	P	
Keeping of Bees	P	P	P	-	-	-	P	P	P	-	
Keeping of Poultry	P	P	SP	-	-	-	P	P	SP	-	300-4-17
Roadside Stand	P	P	P	-	P	-	P	P	P	-	300-4-29
Vineyard and Cropfield	P	P	-	-	-	-	-	P	-	P	
Winery	P	P	-	-	-	-	-	P	P	P	
Wood Processing	P	P	-	-	-	-	P	-	-	-	
COMMERCIAL USES											
Adult Uses, Sexually-Oriented Use	-	-	-	-	-	-	-	-	-	SP	300-4-30
Animal Care Establishment	SP	SP	-	-	-	-	-	SP	SP	SP	300-4-6
Animal Kennel	SP	SP	-	-	-	-	-	SP	SP	SP	300-4-6
Animal Hospital or Veterinary Care	SP	SP	-	-	-	-	-	SP	SP	SP	300-4-6
Animal Shelter	SP	SP	-	-	-	-	-	SP	SP	SP	300-4-6
Bar or Drinking Establishment	-	-	-	-	-	-	-	P	P	P	
Bed-and-Breakfast	SP	SP	SP	SP	SP	SP	-	SP	SP	-	300-4-7
Brewery, Cidery, Distillery, Meadery	P	P	-	-	-	-	-	P	P	P	

TABLE OF PRINCIPAL USES	Agricultural	Rural Residential	Neighborhood Residential	Lakeside Res. - Van Buren	Lakeside Res. - Bear Lake	Lakeside Res. - Lily Dale	Conservation Open Space	Mixed-use Corridor	Mixed-use Hamlet	Employment Center	Supplemental Regulations
Commercial Campground	SP	SP	-	-	-	-	-	-	-	-	300-4-10
Commercial Shooting Range	SP	SP	-	-	-	-	-	-	-	-	300-4-11
Daycare	P	P	-	-	-	-	-	P	P	P	
Daycare, Adult	P	P	-	-	-	-	-	P	P	P	
Daycare, Child	P	P	-	-	-	-	-	P	P	P	
Fuel Station	SP	SP	-	-	-	-	-	SP	-	-	300-4-14
Mixed Use Building	-	-	-	-	-	-	-	P	P	P	
Restaurant	-	-	-	-	-	SP	-	P	P	P	300-4-18
Retail Shop or Store	-	-	-	-	-	SP	-	P	P	P	300-4-18
Feed and Seed Shop	-	-	-	-	-	SP	-	P	P	P	300-4-18
Furniture/Appliance Store	-	-	-	-	-	SP	-	P	P	P	300-4-18
Hardware/Glass/Paint Store	-	-	-	-	-	SP	-	P	P	P	300-4-18
Antique Shop or Gift Shop	-	-	-	-	-	SP	-	P	P	P	300-4-18
Grocery Store	-	-	-	-	-	SP	-	P	P	P	300-4-18
Liquor Store	-	-	-	-	-	-	-	P	-	-	
Shopping Center	-	-	-	-	-	-	-	SP	-	-	300-4-31
Service Shop or Land Use	-	-	-	-	-	SP	-	P	P	P	300-4-18
Drycleaning Shop	-	-	-	-	-	SP	-	P	P	P	300-4-18
Barber/Beauty Shop	-	-	-	-	-	SP	-	P	P	P	300-4-18
Plumbing/Heating Shop	-	-	-	-	-	SP	-	P	P	P	300-4-18
Locksmith Shop	-	-	-	-	-	SP	-	P	P	P	300-4-18
Motor Vehicle-Based Use	-	-	-	-	-	-	-	SP	-	SP	300-4-22
Car Wash Facility	-	-	-	-	-	-	-	SP	-	SP	300-4-22
Motor Vehicle Service and Repair Shop	-	-	-	-	-	-	-	SP	-	SP	300-4-22
Motor Vehicle Sales	-	-	-	-	-	-	-	SP	-	SP	300-4-22
INDUSTRIAL USES											
Alternative Energy Use	SP	SP	-	-	-	-	-	-	-	SP	300-4-5
Large-Scale Solar Use	SP	SP	-	-	-	-	-	-	-	SP	300-4-5
Wind Energy Conversion System	SP	-	-	-	-	-	-	-	-	-	300-4-5

TABLE OF PRINCIPAL USES	Agricultural	Rural Residential	Neighborhood Residential	Lakeside Res. - Van Buren	Lakeside Res. - Bear Lake	Lakeside Res. - Lily Dale	Conservation Open Space	Mixed-use Corridor	Mixed-use Hamlet	Employment Center	Supplemental Regulations
Wind Energy Conversion System, Small	SP	-	-	-	-	-	-	-	-	-	300-4-5
Light Industrial Use											
Manufacturing, Assembly	-	-	-	-	-	-	-	-	-	P	
Production of Raw Materials	-	-	-	-	-	-	-	-	-	P	
Mining Operation	SP	-	-	-	-	-	-	-	-	SP	300-4-19
Telecommunication Facility	-	-	-	-	-	-	-	-	-	SP	300-4-32
Warehousing and Distribution	-	-	-	-	-	-	-	-	-	P	
PUBLIC AND INSTITUTIONAL USES											
Country Club	-	P	-	-	-	-	-	-	-	-	
Golf Course	-	P	-	-	-	-	-	-	-	-	
Institutions for Higher Learning	-	P	-	-	-	-	-	-	P	P	
Parks, Recreation Facility	-	P	P	P	P	P	P	P	P	P	
Public and Private School	-	P	P	SP	SP	SP	-	-	P	-	300-4-18
Places of Worship	P	P	P	P	P	P	-	P	P	P	
Professional Office	-	-	-	SP	SP	SP	-	P	P	P	300-4-18
Public Community Facility	-	P	P	P	P	P	-	P	P	P	
Utilities, Public	P	P	P	P	P	P	P	P	P	P	
ACCESSORY USES											
Accessory Structure	P	P	P	-	-	-	-	P	P	P	
Accessory Structure, LR District	-	-	-	SP	SP	SP	-	-	-	-	300-5-5
Alternative Energy Use											300-4-5
Ground-mounted Solar Use	P	P	P	P	P	P	-	P	P	P	300-4-5
Roof-mounted Solar Use	P	P	P	P	P	P	P	P	P	P	300-4-5
Drive-Through Facility	-	-	-	-	-	-	-	SP	-	SP	300-4-12
Fuel Tank	SP	SP	-	-	-	-	-	SP	SP	SP	300-4-13
Gas Compressor	SP	SP	-	-	-	-	-	-	-	SP	300-4-15
Outdoor Storage	P	P	P	P	P	P	-	P	P	P	300-4-25
Storage of Junk Vehicle	P	P	P	-	-	-	-	P	P	P	300-4-25
Outdoor Display	SP	SP	SP	SP	SP	SP	-	SP	SP	SP	300-4-24
Outdoor Farmers or Craft Market	P	P	P	-	-	-	-	P	P	P	

TABLE OF PRINCIPAL USES	Agricultural	Rural Residential	Neighborhood Residential	Lakeside Res. - Van Buren	Lakeside Res. - Bear Lake	Lakeside Res. - Lily Dale	Conservation Open Space	Mixed-use Corridor	Mixed-use Hamlet	Employment Center	Supplemental Regulations
Ponds, Manmade	SP	SP	SP	-	-	-	-	SP	SP	-	300-4-26
Recreational Vehicle Storage	P	P	P	P	P	P	-	P	P	P	300-4-28
Swimming Pools	SP	SP	SP	SP	SP	SP	-	-	SP	-	300-4-27
Topsoil Excavation	P	P	P	P	P	P	-	P	-	P	300-4-33

300-4-4. Supplemental Regulations Purpose & Intent

- A. Development conditions shall be attached to special use permits when necessary or advisable to reduce or eliminate conflicts between uses or to protect the health, safety and general welfare.
- B. Uses requiring supplemental regulations shall similarly require the granting of a special use permit. Additional special permitting procedures and requirements are included in Article 7 of this Chapter.
- C. Applicants who have received special use permits with conditions attached shall be responsible for continued compliance with the specified conditions. Noncompliance with any condition shall result in revocation of the special use permit, and continuance of the use shall only be allowed after reapplication for the special use permit.
- D. Land uses requiring special use permits shall satisfy all supplemental regulations. These regulations are included in 300-4-5 to 300-4-30.

300-4-5. Alternative Energy Use

A. Purpose

1. The Town Board exercising the authority granted to it under the Town Law of the State of New York to protect the health, safety and welfare of the residents and property owners of the Town of Pomfret.
2. These supplemental regulations shall regulate the construction, maintenance and placement of solar array systems, other alternative energy structures and uses, and any associated equipment.
3. The purpose of this legislation is to balance the potential impact on neighbors when solar array systems may be installed near their property while preserving the rights of the property owners to install solar collection systems without excess regulation.
4. The Town recognizes the importance of alternative energy sources in generating electricity for on-premises and off-premises use, the reduction of greenhouse gas emissions, and support for emerging solar system economic development.

B. Applicability

1. The requirements of this section shall apply to all solar array systems installed or modified after the effective date of this Chapter, excluding general maintenance and repair.
2. All solar array systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Building Code, the National Electrical Code (NEC) and other local regulations in the Town's code.

C. SEQRA Requirements

1. Under New York State's SEQRA regulations, actions are grouped as Type I, Type II or Unlisted Actions. Type II Actions are exempt from review and include actions such as construction, expansion or placement of minor accessory structures.
2. The Town considers building-integrated photovoltaic solar uses and small-scale solar uses to be Type II Actions and therefore exempt from all SEQRA requirements, including the submission of an EAF (Environmental Assessment Form).
3. Large-scale solar uses and solar energy production facilities that meet the thresholds contained in the SEQRA regulations are considered more likely than others to have a significant adverse environmental impact. These uses shall be considered Type I Actions.
4. Any need for a complete Environmental Impact Statement (EIS) shall be determined by the Town Board in accordance with the significance of the potential adverse environmental impact.

D. Solar as a Principal Use

1. Large-scale solar uses shall be considered principal uses and shall be specially permitted according to the regulations contained herein.
2. Large-scale solar uses shall only be specially permitted in the Agricultural (AG), Rural Residential (RR) and Employment Center (EC) Districts.

3. Large-scale solar uses shall comply with the height and setback requirements of the underlying zoning district together with the following area requirements, whichever is more restrictive.
 - a. Large-scale solar uses shall be set back a minimum of 300 ft from the edge of any public right-of-way.
 - b. Large-scale solar uses shall be set back a minimum of 250 ft from each property line bordering the property on which the use will be sited.
 - c. Large-scale solar uses shall be set back a minimum of 350 ft from any residential land use on an adjacent property.
 - d. Large-scale solar uses shall be at least 50 ft from any structure on the premises hosting the solar energy system, which may contain additional solar energy equipment.
 - e. No part of the large-scale solar use shall exceed 35 ft in height.
4. Large-scale uses shall be located on lots with a minimum lot size that is large enough to accommodate the proposed system. No large-scale system will be permitted to be located on multiple parcels. In this case, the system would only be permitted if the parcels were combined and retired by deed.
5. The maximum lot coverage for any large-scale solar use, inclusive of all solar energy systems and solar energy equipment shall be included in a property's total lot coverage and shall not exceed 50% of total lot coverage.
6. In addition to D-3 and D-4 above, additional requirements regarding placement, height, location, setback and/or buffers may be imposed during the special permit process.
7. All large-scale solar uses shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The height and type of fencing shall be determined by the special use permit process.
8. On-site electrical interconnection lines and distribution lines shall be placed underground unless otherwise required by the utility.
9. The removal of existing vegetation is limited to the extent necessary for the construction and maintenance of the solar installation.
10. Special Use Permit Requirements. Every application for a special use permit under this section shall contain the following materials:
 - a. Verification of utility notification. Foreseeable infrastructure upgrades shall be documented and submitted. Off-grid systems are exempt from this requirement.
 - b. Name, address and contact information of the applicant, property owner(s) and agent submitting the proposed project.
 - c. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land.

- d. Site Plan. Site plan applications shall be submitted to the Planning Board for initial review. A recommendation from the Planning Board shall be submitted to the Town Board, who shall approve or deny the special use permit application. Every application for a large-scale solar shall be approved by majority vote of the Town Board. A public hearing shall be held in accordance with New York State Town Law.
- e. Blueprints signed by a New York State licensed engineer or registered architect of the solar installation showing the layout of the large-scale solar use.
- f. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and invertors that are to be installed.
- g. Property Operation and Maintenance Plan. A property operation and maintenance plan is required, describing continuing photovoltaic maintenance and property upkeep such as landscaping, mowing, etc.
- h. Decommissioning Plan. To ensure the proper removal of large-scale solar uses, a decommissioning plan is required. The plan must include the removal of all infrastructure and the remediation of soil and vegetation back to its original state prior to construction, unless otherwise permitted. A cost estimate detailing the projected cost of executing the decommissioning plan shall be prepared, signed and sealed by a professional engineer or contractor. Cost estimations shall account for inflation.
- i. Financial Surety. A form of surety, through escrow, bond or the equivalency of, shall be established prior to the commencement of construction to cover the cost of decommissioning the site. The amount of surety required by the municipality may not exceed 125 percent of the estimated cost to decommission.

E. Solar as an Accessory Use/Structure

- 1. This section governs the placement and installation of small-scale solar uses as defined in this Chapter. The installation of small-scale solar uses requires a building permit from the Town.
- 2. Roof-mounted Solar Uses
 - a. Roof-mounted solar uses are permitted as an accessory use in all zoning districts when attached to lawfully permitted principal and accessory structures, subject to the requirements set forth in this section.
 - b. Solar energy accessory uses shall not exceed the maximum height restrictions for the underlying zoning district in which they are to be located. Roof-mounted solar uses are provided the same height exemptions granted to building-mounted mechanical devices or equipment.
 - c. Solar energy equipment shall be installed inside walls and attic spaces when possible to reduce their visual impact. If roof-mounted solar uses include equipment that is visible from a public right-of-way, it should be constructed to match the underlying structure in design and color.
 - d. Roof-mounted solar panels that are facing the front yard of a property shall be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and the highest edge of the roof-mounted system.

3. Ground-mounted Solar Uses

- a. Ground-mounted solar energy systems are permitted as an accessory structure in all zoning districts, subject to the requirements set forth in this section.
- b. All ground-mounted solar uses in residential districts should be installed in the rear yard. Side yard installations are permitted subject to all requirements herein. Front yard installations shall be prohibited.
- c. All ground-mounted solar uses are subject to the setback requirements of the underlying zoning district. For districts with either 0 ft or 5 ft setbacks for side or rear yards, a ground-mounted solar use shall be set back at least 10 feet.
- d. The following height requirements shall apply to all ground-mounted uses based on their setback distances. No ground-mounted solar use shall exceed 25 ft under any circumstances.
- e. The surface of ground-mounted solar uses shall be included in total lot coverage for the property and shall not exceed 30% of the total lot.
- f. Any application for installation and placement of ground-mounted solar uses under this section shall require an application containing a site plan showing the location of all solar energy system components, their location on the premises, their location in relation to the property lines and any and all structures and buildings on the premises, and the nearest structure located on the premises adjacent thereto.
- g. The site plan for all ground-mounted solar uses shall be reviewed and approved by the Planning Board.

Ground-mounted Uses Height Requirements	
Setbacks	Height Not Greater Than
10 ft	15 ft
15 ft	20 ft
25 ft or greater	25 ft

F. Batteries for Solar Storage

- 1. If solar storage batteries are included as part of a large-scale solar use, then their location, placement and maintenance shall be governed by and in accordance with the regulations in this section, the New York State Uniform Code and all regulations promulgated under New York State Code and the National Electric Code.
- 2. When storage batteries are no longer in use, they shall be properly disposed of in accordance with New York State law and all other relevant and applicable Federal and local disposal laws and/or regulations.

A. Wind Energy Facilities

1. Purpose. These regulations are intended to promote the effective and efficient use of the Town's wind energy resource through wind energy conversion systems (WECS), and to regulate the placement of such systems so that the public health, safety and welfare will not be jeopardized.
2. Authority. The authority for this section is granted by various State laws which enable Pomfret to provide requirements for the appropriate, effective and efficient siting of wind energy facilities.
3. Permits Required.
 - a. No wind energy facility shall be constructed, reconstructed, modified or operated in the Town of Pomfret except in a Wind Overlay Zone, pursuant to an application for rezoning and a special use permit approved pursuant to this section.
 - b. No WECS shall be constructed, reconstructed, modified or operated in the Town of Pomfret except in a Wind Overlay Zone, pursuant to an application for rezoning and special use permit approved pursuant to this section.
 - c. No wind measurement tower shall be constructed, reconstructed, modified or operated in the Town of Pomfret except pursuant to a special use permit issued in accordance with this section.
 - d. No small wind energy conversion system shall be constructed, reconstructed, modified or operated in the Town of Pomfret except pursuant to a wind energy permit issued pursuant to this section.
 - e. Notwithstanding any other provisions of this Zoning Chapter, special use permits for WECS shall be issued by the Town Board.
 - f. This section shall apply to all areas where wind energy facilities are permitted in the Town of Pomfret, which shall be limited to established Wind Overlay Zones within the Agricultural (AG) District.
 - g. Exemptions. No permit or other approval shall be required under this section for WECS utilized solely for agricultural or farm operations in a state or county agricultural district, as long as the facility is set back at least 1.5 times its total height from a property line and does not exceed a height of 120 ft. Towers over 120 ft in total height utilized solely for agricultural operations in a state or county agricultural district shall apply for a special use permit in accordance with this Chapter, but shall not require a height variance. Prior to the construction of a WECS under this exemption, the property owner or a designated agent shall submit a sketch plan or building permit application to the Town to demonstrate compliance with the setback requirements.
 - h. Transfer. No transfer of any wind energy facility or special use permit, nor sale of the entity owning such facility, including the sale of more than 30% of the stock of such entity (not counting sales of shares on a public exchange), will occur without prior approval of the Town, which approval shall be granted upon written acceptance of the transferee of the obligations of the transferor under this section, and the transferee's demonstration, in the sole discretion of the Town Board, that it can meet the technical and financial obligations of the transferor.

No transfer shall eliminate the liability of the transferor nor of any other party under this section unless the entire interest of the transferor in all facilities in the Town is transferred and there are no outstanding obligations or violations.

4. Notwithstanding the requirements of this section, replacement in kind or modification of a wind energy facility may occur without Town Board approval when:
 - a. There will be no increase in total height;
 - b. There will be no change in the location of the WECS;
 - c. There will be no additional lighting or change in facility color; and
 - d. There will be no increase in noise produced by the WECS.

B. Creation of Wind Overlay Zones

1. Wind Overlay Zones shall only be created in the Agricultural (AG) District.
2. Initial requests for Wind Overlay Zones shall be submitted with applications for WECS special use permits. No Wind Overlay Zone shall be initially created without specific requests for WECS.
3. Once a Wind Overlay Zone has been created, new WECS or accessory structures or facilities may be added in that zone by grant of a special use permit pursuant to the requirements of this section.

C. Applications for wind energy conversion systems. A joint application for creation of a Wind Overlay Zone and special use permit for individual WECS shall include the following:

1. Name, address and telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.
2. Name and address of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (a) confirming that the property owner is familiar with the proposed applications and (b) authorizing the submission of the application.
3. Address, or other property identification, of each proposed tower location, including Tax Map section, block and lot number.
4. A description of the project, including the number and maximum rated capacity of each WECS.
5. A plot plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe the following.
 - a. Property lines and physical dimensions of the site.
 - b. Location, approximate dimensions and types of major existing structures and uses on site, public roads, and adjoining properties Within 500 feet of the boundaries of the proposed Wind Overlay Zone.
 - c. Location and elevation of each proposed WECS.

- d. Location of all aboveground utility lines on the site or within one radius of the total height of the WECS, transformers, power lines, interconnection point with transmission lines and other ancillary facilities or structures.
 - e. Location and size of structures above 35 feet within a five-hundred-foot radius of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open lattice towers are not considered structures.
 - f. The zoning designation of the subject and adjacent properties as set forth on the official Town Zoning Map.
 - g. Proposed boundaries of the Wind Overlay Zone.
 - h. To demonstrate compliance with the setback requirements of this section, circles drawn around each proposed tower location equal to:
 - i. 1.5 times the tower height radius.
 - ii. 500 ft radius.
 - iii. 1,200 ft radius.
 - i. Location of residential structures within 1,200 feet of each proposed tower. The distance from the center of the tower to any off-site residence within 1,200 feet shall be noted.
 - j. All proposed facilities, including access roads, electrical lines, substations, storage or maintenance units and fencing.
6. Vertical drawing of the WECS showing total height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs and access doors. One drawing may be submitted for each WECS of the same type and total height.
 7. Landscaping plan depicting vegetation describing the area to be cleared and the specimens proposed to be added, identified by species and size of specimen at installation and their locations.
 8. Lighting plan showing any FAA-required lighting and other proposed lighting. The application should include a copy of the determination by the Federal Aviation Administration to establish required markings and/or lights for the structure, but if such determination is not available at the time of the application, no building permit for any lighted facility may be issued until such determination is submitted.
 9. List of property owners, with their mailing addresses, within 500 feet of the boundaries of the proposed Wind Overlay Zone. The applicant may delay submitting this list until the Town Board calls for a public hearing on the application.
- D. Decommissioning plan.
1. Any applicant for a wind energy facility shall submit a decommissioning plan, which shall include:
 - a. The anticipated life of the WECS;

- b. The estimated decommissioning costs in current dollars;
 - c. How said estimate was determined;
 - d. The method of ensuring that funds will be available for decommissioning and restoration;
 - e. The method, such by annual re-estimate by a licensed engineer, that the decommissioning cost will be kept current; and
 - f. The manner in which the WECS will be decommissioned and the site restored, which shall include removal of all structures and debris to a depth of three feet, restoration of the soil, and restoration of vegetation (consistent and compatible with surrounding vegetation), less any fencing or residual minor improvements requested by the landowner.
2. The plan shall include the decommissioning bond required by this section.
- E. Complaint Resolution. The applicant will include a complaint resolution process to address complaints from nearby residents. The process shall use an independent mediator or arbitrator and include a time limit for acting on a complaint. The applicant shall make every reasonable effort to resolve any complaint.
- F. An application shall include information relating to the construction/installation of the wind energy conversion facility as follows:
- 1. A construction schedule describing commencement and completion dates; and
 - 2. A description of the routes to be used by construction and delivery vehicles, and the gross weights and heights of those loaded vehicles.
- G. Completed Part 1 of the full EAF.
- H. Applications for special use permits for wind measurement towers subject to this section may be jointly submitted with the WECS.
- I. For each proposed WECS, , include make, model, picture and manufacturer's specifications, including noise decibels data. Include Manufacturers' Material Safety Data Sheet documentation for the type and quantity of all materials used in the operation of all equipment, including, but not limited to, all lubricants and coolants.
- J. If the applicant agrees in writing in the application that the proposed WECS may have a significant adverse impact on the environment, the Town Board shall issue a positive declaration of environmental significance.
- K. If a positive declaration of environmental significance is determined by the SEQRA lead agency, the following information shall be included in the draft environmental impact statement (DEIS) prepared for a wind energy facility. Otherwise, the following studies shall be submitted with the application:
- 1. Shadow flicker. The applicant shall conduct a study on potential shadow flicker. The study shall identify locations where shadow flicker may be caused by the WECS and the expected durations of the flicker at these locations. The study shall identify areas where shadow flicker may interfere with residences and describe measures that shall be taken to eliminate or mitigate the problems.

2. Visual impact. Applications shall include a visual impact study of the proposed WECS as installed, which shall include a computerized photographic simulation, demonstrating any visual impacts from strategic vantage points. Color photographs of the proposed site from at least two locations accurately depicting the existing conditions shall be included. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.
3. A fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the proposed zone.
4. Noise analysis. A noise analysis by a competent acoustical consultant documenting the noise levels associated with the proposed WECS. The study shall document noise levels at property lines and at the nearest residence not on the site (if access to the nearest residence is not available, the Town Board may modify this requirement). The noise analysis shall provide preexisting ambient noise levels and include low-frequency noise.
5. Property value analysis prepared by a licensed appraiser in accordance with industry standards, regarding the potential impact of values of properties adjoining WECS sites, including properties across public roads from the site.
6. An assessment of potential electromagnetic interference with microwave, radio, television, personal communication systems and other wireless communication.
7. Tower design information sufficient to demonstrate compliance with wind-loading requirements.
8. Analysis of potential ice-throwing and damage from blade throw impacts.
9. A statement, signed under penalties of perjury, that the information contained in the application is true and accurate.

L. Application Review Process.

1. Applicants may request a pre-application meeting with the Town Board, or with any consultants retained by the Town Board for application review. Meetings with the Town Board shall be conducted in accordance with the Open Meetings Law
2. Six copies of the application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission. If any variances are requested, variance application fees shall be paid at the time of the receipt of the application.
3. Town staff or Town-designated consultants shall, within 30 days of receipt, or such longer time if agreed to by the applicant, determine if all information required under this section is included in the application.
4. If the application is deemed incomplete, the Town Board or its designated reviewer shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the number of WECSs proposed is increased.
5. Upon submission of a complete application, including the grant of any application waiver by the Town Board, the Town Clerk shall transmit the application to the Town Board. The applicant

shall post the completed application and any accepted environmental impact statements on the Internet. The application shall be referred to both the Zoning Board and Planning Board in accordance with this section and the Zoning Chapter.

6. The Town Board shall hold at least one public hearing on the application. Notice shall be given by first class mail to property owners within 500 feet of the boundaries of the proposed Wind Overlay Zone, and published in the Town's official newspaper, no less than 10 nor more than 20 days before any hearing, but, where any hearing is adjourned by the Town Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing prepared by the Town, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.
 7. The public hearing may be combined with public hearings on any environmental impact statement or requested variances.
 8. Notice of the project shall also be given, when applicable, to the Chautauqua County Planning Board, if required by General Municipal Law §§ 239-l and 239-m, and to adjoining Towns under Town Law § 264.
 9. SEQRA Review. Applications for WECS are deemed Type I projects under SEQRA. The Town shall conduct its SEQRA review in conjunction with other agencies, and the record of review by said agencies shall be part of the record of the Town's proceedings. The Town may require an escrow agreement for the engineering and legal review of the applications and any environmental impact statements before commencing its review. At the completion of the SEQRA review process, if a positive declaration of environmental significance has been issued and an environmental impact statement prepared, the Town shall issue a statement of findings, which statement may also serve as the Town's decision on the applications.
 10. Upon receipt of the report of the recommendation of the County Planning Board (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Town Board may approve, approve with conditions or deny the applications, in accordance with the standards in this section.
- M. Standards for WECS. The following standards shall apply to all WECS, unless specifically waived by the Town Board as part of a permit.
1. All power transmission lines from the tower to any building or other structure shall be located underground to the maximum extent practicable.
 2. No television, radio or other communication antennas may be affixed or otherwise made part of any WECS, except pursuant to the telecommunications facilities provisions of the Town Zoning Chapter. Applications may be jointly submitted for WECS and telecommunications facilities.
 3. No advertising signs are allowed on any part of the wind energy facility, including fencing and support structures.
 4. Lighting of tower. No tower shall be lit except to comply with FAA requirements. Minimum security lighting for ground level facilities shall be allowed as approved on the site plan. Security lighting shall be designed to minimize light pollution, including the use of light hoods, low glare fixtures, and directing lights at the ground.

5. All applicants shall use measures to reduce the visual impact of WECSs to the extent possible. WECSs shall use tubular towers. All structures in a project shall be finished in a single, non-reflective matte finished color or a camouflage scheme. Individual WECSs within a Wind Overlay Zone shall be constructed using wind turbines whose appearance, with respect to one another, is similar within and throughout the zone, to provide reasonable uniformity in overall size, geometry and rotational speeds. No lettering, company insignia, advertising or graphics shall be on any part of the tower, hub or blades.
6. The use of guy wires is prohibited.
7. No WECS shall be installed in any location where its proximity with existing fixed broadcast, retransmission or reception antenna for radio, television or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. No WECS shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation. If it is determined that a WECS is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference, including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy electromagnetic interference is grounds for revocation of the special use permit for the specific WECS or WECSs causing the interference.
8. All solid waste, hazardous waste and construction debris shall be removed from the site and managed in a manner consistent with all appropriate rules and regulations.
9. WECS shall be designed to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided when feasible. The use of previously developed areas will be given priority wherever possible.
10. WECS shall be located in a manner that minimizes significant negative impacts on rare, endangered and threatened animal species in the vicinity, particularly bird and bat species.
11. WECS facilities shall be located in a manner consistent with all applicable state and federal wetlands laws and regulations.
12. Stormwater runoff and erosion control shall be managed in a manner consistent with all applicable state and federal laws and regulations.
13. The maximum total height of any WECS shall be 420 feet.
14. Construction of the WECS shall be limited to the hours of 8:00 a.m. to 8:00 p.m. except for certain activities that require cooler temperatures than possible during the day, subject to approval from the Town.
15. Substations required to serve WECS are an essential public service under this Zoning Chapter. Substations shall be screened from public view.
16. The Town of Pomfret shall be named as an additional insured under the general liability policy of the applicant, the amount of which insurance shall be no less than an amount to be determined by the Town Board given the nature and scope of the project proposed by the applicant.

17. Any construction or ground disturbance involving agricultural land shall be done according to the NYS Department of Agriculture and Markets' publication titled "Guidelines for Agricultural Mitigation for Wind Power Projects."

N. Required safety measures.

1. Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.
2. Unless the property owner submits a written request that no fencing be required, a six-foot-high fence with a looking portal shall be required to enclose each tower or group of towers. The color and type of fencing for each WECS installation shall be determined on the basis of individual applications as safety needs dictate. The entrances to entrance roads shall be gated and kept locked.
3. Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. A sign shall be posted on the entry area of fence around each tower or group of towers and any building (or on the tower or building if there is no fence) containing emergency contact information, including a local telephone number with twenty-four-hour, seven-day-a-week coverage. The Town Board may require additional signs based on safety needs.
4. No climbing pegs or tower ladders shall be located closer than 12 feet to the ground level at the base of the structure for freestanding single pole.
5. The minimum distance between the ground and any part of the rotor or blade system shall be 20 feet.
6. WECSs shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked.
7. Accurate maps of the underground facilities shall be filed with the Town and with "UDig NY" (800-962-7962)" or its successor.

O. Traffic Routes.

1. Construction of WECS poses potential risks because of the large-size construction vehicles and their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for WECS and/or associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include: minimizing traffic impacts from construction and delivery vehicles; minimizing WECS related traffic during times of school bus activity; minimizing wear and tear on local roads; and minimizing impacts on local business operations. Permit conditions may require remediation during construction, may limit WECS-related traffic to specified routes, and may include a plan for disseminating traffic route information to the public, and all applicable state, county and municipal highway authorities and superintendents whose roads are included in the WECS traffic routes plan. Notification to all applicable highway authorities and superintendents will include the number and type of vehicles and their size, their maximum gross weight, the number of round trips, and the dates and time periods of expected use of designated traffic routes.

2. The applicant is responsible for remediation of damaged roads upon completion of the installation or maintenance of a WECS. A public improvement bond shall be posted prior to the issuance of any building permit in an amount, determined by the Town Board, sufficient to compensate the Town for any damage to local roads.
3. If the applicant uses any seasonal use highway in the off-season, it shall be solely responsible for the maintenance of said highway, including but not limited to snow plowing. No act of maintenance on a seasonal use highway by an applicant shall be considered as Town maintenance of that highway for purposes of determining the seasonal use status of the highway.

P. Setbacks for WECS.

1. The statistical sound pressure level generated by a WECS shall not exceed Lw-50 dBA measured at any residence existing at the time of completing the SEQRA review of the application. If the ambient sound pressure level exceeds 48 dBA, the standard shall be ambient dBA plus 5 dBA. Independent certification shall be provided before and after construction demonstrating compliance with this requirement.
2. In the event audible noise due to WECS operations contains a steady pure tone, such as a whine, screech or hum, the standards for audible noise set forth in Subsection M(l) of this subsection shall be reduced by five dBA. A pure tone is defined to exist if the 1/3 octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels of the two contiguous 1/3 octave bands by five dBA for center frequencies of 500 Hz and above, by eight dBA for center frequencies between 160 Hz and 400 Hz, or by 15 dBA for center frequencies less than or equal to 100 and 125 Hz.
3. In the event the ambient noise level (exclusive of the development in question) exceeds the applicable standard given above, the applicable standard shall be adjusted so as to equal the ambient noise level. The ambient noise level shall be expressed in terms of the highest whole number sound pressure level in dBA, which is exceeded for more than five minutes per hour. Ambient noise levels shall be measured at the exterior of potentially affected existing residences, schools, hospitals, churches and public libraries. Ambient noise level measurement techniques shall employ all practical means of reducing the effect of wind generated noise at the microphone. Ambient noise level measurements may be performed when wind velocities at the proposed project site are sufficient to allow wind turbine operation, provided that the wind velocity does not exceed 30 mph at the ambient noise measurement location.
4. Any noise level falling between two whole decibels shall be the lower of the two.
5. Each WECS shall be set back from site boundaries, measured from the center of the WECS, a minimum distance of:
 - a. 500 feet from the nearest site boundary property line.
 - b. 500 feet from the nearest public road.
 - c. 1,200 feet from the nearest off-site residence existing at the time of application, measured from the exterior of such residence.
 - d. 1.5 times the total height of the WECS from any non-WECS structure or any aboveground utilities.

- e. 100 feet from state-identified wetlands. This distance may be adjusted to be greater or lesser at the discretion of the reviewing body, based on topography, land cover, land uses and other factors.
- f. 500 feet from gas wells, unless waived in writing by the property owner.

Q. Noise and setback easements. In the event the noise levels resulting from a WECS exceed the criteria established in this section, or any setback requirement is not met, a waiver will be granted from such requirement by the Town Board in the following circumstances:

- 1. Written consent from the affected property owners has been obtained stating that they are aware of the WECS and the noise and/or setback limitations imposed by this section, that they wish to be part of the site as defined in this section, and that their consent is granted to:
 - a. Allow noise levels to exceed the maximum limits otherwise allowed; or
 - b. Allow setbacks less than required; and
- 2. In order to advise all subsequent owners of the burdened property, the consent, in the form required for an easement, has been recorded in the County Clerk's office describing the benefited and burdened properties. Such easements shall be permanent and may not be revoked without the consent of the Town Board, which consent shall be granted upon either the completion of the decommissioning of the benefited WECS in accordance with this section, or the acquisition of the burdened parcel by the owner of the benefited parcel or the WECS.
- 3. In any case where written consent is not obtained, a variance from the Zoning Board of Appeals shall be required.

R. Creation of Wind Overlay Zones and Issuance of Special Use Permits.

- 1. Upon completion of the review process, the Town Board shall, upon consideration of the standards in this section and the record of the SEQRA review, issue a written decision with the reasons for approval, conditions of approval or disapproval fully stated.
- 2. If approved, the Town Board will direct the Town Clerk to modify the Official Map to reflect the creation of the Wind Overlay Zones, and direct Town staff to issue a special use permit for each WECSs upon satisfaction of all conditions for said permit, and direct the Building Inspector to issue a building permit, upon compliance with the Uniform Fire Prevention and Building Code and the other conditions of this section.
- 3. The decision of the Town Board shall be filed within five days in the office of the Town Clerk and a copy mailed to the applicant by first class mail.
- 4. If any approved WECS is not substantially commenced within two years of issuance of the permit, the special use permit shall expire.

S. Abatement.

- 1. If any WECS remains nonfunctional or inoperative for a continuous period of one year, the applicant agrees that, without any further action by the Town Board, it shall remove said system at its own expense. Removal of the system shall include at least the entire aboveground structure, including transmission equipment and fencing, from the property. This provision shall not apply if

the applicant demonstrates to the Town that it has been making good faith efforts to restore the WECS to an operable condition, but nothing in this provision shall limit the Town's ability to order a remedial action plan after public hearing.

2. Non-function or lack of operation may be proven by reports to the Public Service Commission, NYSEERDA, or by lack of income generation. The applicant shall make available (subject to a nondisclosure agreement) to the Town Board all reports to and from the purchaser of energy from individual wind energy conversion systems, if requested necessary to prove the WECS is functioning, which reports may be redacted as necessary to protect proprietary information.
3. Decommissioning bond or fund. The applicant, or successors, shall continuously maintain a fund or bond payable to the Town for the removal of nonfunctional towers and appurtenant facilities in an amount to be determined by the Town for the period of the of the life of the facility. This fund may consist of a letter of credit from a State of New York licensed financial institution. All costs of the financial security shall be borne by the applicant.

T. Limitations on Approvals; Easements on Town Property.

1. Nothing in this section shall be deemed to give any applicant the right to cut down surrounding trees and vegetation on any property to reduce turbulence and increase wind flow to the wind energy facility. Nothing in this section shall be deemed a guarantee against any future construction or Town approvals of future construction that may in any way impact the wind flow to any wind energy facility. It shall be the sole responsibility of the facility operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation.
2. Pursuant to the powers granted to the Town to manage its own property, the Town may enter into noise, setback or wind flow easements on such terms as the Town Board deems appropriate, as long as said agreements are not otherwise prohibited by state law or this section.

U. Permit Revocation.

1. Testing fund. A special use permit shall contain a requirement that the applicant fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which may be required as often as every two years, or more frequent upon request of the Town Board in response to complaints by neighbors. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the special use permit and this section and shall also include an evaluation of any complaints received by the Town. The applicant shall have 90 days after written notice from the Town Board to cure any deficiency. An extension of the ninety-day period may be considered by the Town Board, but the total period may not exceed 180 days.
2. Operation. A WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate a permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Town Board. The applicant shall have 90 days after written notice from the Town Board to cure any deficiency. An extension of the ninety-day period may be considered by the Town Board, but the total period may not exceed 180 days.

3. Notwithstanding any other abatement provision under this section, and consistent with § 300-83P(l) and (2), if the WECS is not repaired or made operational or brought into permit compliance after said notice, the Town may, after a public meeting at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, order either remedial action within a particular time frame, or order revocation of the special use permit for the WECS and require the removal of the WECS within 90 days. If the WECS is not removed, the Town Board shall have the right to use the security posted as part of the decommission plan to remove the WECS.
- V. Wind Site Assessment. The Town Board acknowledges that prior to construction of a WECS, a wind site assessment is conducted to determine the wind speeds and the feasibility of using particular sites. Installation of wind measurement towers, also known as anemometer (“Met”) towers, shall be permitted as a special use in the Agricultural/Residential (AR) Use Zone.
- W. Applications for wind measurement towers. An application for a wind measurement tower shall include:
1. Name, address and telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.
 2. Name, address and telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner confirming that the property owner is familiar with the proposed applications and authorizing the submission of the application.
 3. Address of each proposed tower site, including Tax Map section, block and lot number.
 4. Site plan.
 5. Decommissioning plan, based on the criteria in this section for WECS, including a security bond or cash for removal.
- X. Standards for Wind Measurement Towers.
1. The distance between a wind measurement tower and the property line shall be at least the total height of the tower. Sites can include more than one piece of property and the requirement shall apply to the combined properties. Exceptions for neighboring property are also allowed with the consent of those property owners.
 2. Special use permits for wind measurement towers may be issued by the Town Board for a period of up to two years. Permits may be renewed if the facility is in compliance with the conditions of the special use permit.
- Y. Small WECS.
1. Purpose and intent. The purpose of this small WECS section is to provide standards for small wind energy conversion systems designed for home, farm and small commercial use on the same parcel, and are primarily used to reduce consumption of utility power at that location. The intent of this small WECS section is to encourage the development of small wind energy systems and to

protect the public health, safety and community welfare.

2. Applications for Small WECS permits shall include:
 - a. Name, address and telephone number of the applicant. If the applicant will be represented by an agent, the name, address and telephone number of the agent as well as a notarized signature of the applicant authorizing the agent to represent the applicant.
 - b. Name, address, and telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner confirming that the property owner is familiar with the proposed applications and authorizing the submission of the application.
 - c. Address of each proposed tower location, including Tax Map section, block and lot number.
 - d. Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.
 - e. A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the Uniform Fire Prevention and Building Code.
 - f. Sufficient information demonstrating that the system will be used primarily to reduce consumption of electricity at that location.
 - g. Written evidence that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan, and so states in the application, to connect the system to the electricity grid.
 - h. A visual analysis of the small WECS as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.
3. Development Standards. All small wind energy systems shall comply with the following standards. Additionally, such systems shall also comply with all the requirements established by other sections of this Chapter that are not in conflict with the requirements contained in this section.
 - a. A system shall be located on a lot a minimum of one acre in size, however, this requirement can be met by multiple owners submitting a joint application.
 - b. Only one small wind energy system tower per legal lot shall be allowed, unless there are multiple applicants, in which their joint lots shall be treated as one lot for purposes of this section.
 - c. Small wind energy systems shall be used primarily to reduce the on-site consumption of electricity.
 - d. Tower heights may be allowed as follows:
 - i. 65 feet or less on parcels that are 1-5 acres.

- ii. 85 feet or less on parcels of more than 5 acres.
- iii. The allowed height shall be reduced if necessary to comply with all applicable Federal Aviation Requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports.
- e. The maximum turbine power output is limited to 101 kW.
- f. The system's tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize any visual disruption.
- g. The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas.
- h. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.
- i. All on-site electrical wires associated with the system shall be installed underground except for "tie-ins" to a public utility company and public utility company transmission poles, towers and lines. This standard may be modified by the decision-maker if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts or similar factors.
- j. The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.
- k. At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo or advertising shall be placed or painted on the tower, rotor, generator or tail vane where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.
- l. Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:
 - i. Tower-climbing apparatus located no closer than 12 feet from the ground.
 - ii. A locked anti-climb device installed on the tower
 - iii. A locked, protective fence at least six feet in height that encloses the tower.
- m. Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any aboveground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three to eight feet above the ground.
- n. Construction of on-site access roadways shall be minimized. Temporary access roads utilized for initial installation shall be regraded and re-vegetated to the preexisting natural condition after completion of installation.

- o. To prevent harmful wind turbulence from existing structures, the minimum height of the lowest part of any horizontal axis wind turbine blade shall be at least 30 feet above the highest structure or tree within a two-hundred-fifty-foot radius. Modification of this standard may be made when the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.
 - p. All small wind energy system tower structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Fire Prevention and Building Code.
 - q. All small wind energy systems shall be equipped with manual and automatic overspeed controls. The conformance of rotor and overspeed control design and fabrication with good engineering practices shall be certified by the manufacturer.
4. Standards. A small WECS shall comply with the following standards:
- a. Setback requirements. A small WECS shall not be located closer to a property line than 1 1/2 times the total height of the facility.
 - b. Noise. Except during short-term events, including utility outages and severe wind storms, a small WECS shall be designed, installed and operated so that noise generated by the system shall not exceed the 50 decibels (dBA), as measured at the closest neighboring inhabited dwelling.
5. Abandonment of Use.
- a. A small WECS which is not used for 12 successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any building permit shall constitute grounds for the revocation of the permit by the Town.
 - b. All small WECS shall be maintained in good condition and in accordance with all requirements of this section.

Z. Waivers, Fees, Exemptions, Enforcement and Penalties.

- 1. The Town Board may, after a public hearing (which may be combined with other public hearings on wind energy facilities, so long as the waiver request is detailed in the public notice), grant a waiver from the strict application of the provisions of this section if, in the opinion of the Town Board, the grant of said waiver is in the best interests of the Town. The Town Board may consider reasonable factors in evaluating the request, which may include; when applicable, the impact of the waiver on the neighborhood, including the potential detriment to nearby properties, the benefit to the applicant, feasible alternatives and the scope of the request.
- 2. The Town Board may attach such conditions as it deems appropriate to waiver approvals as it deems necessary to minimize the impact of the waiver.
- 3. Fees. Fees for Wind Overlay Zone rezoning and all necessary permits shall be adopted by resolution of the Town of Pomfret Town Board. The cost of all legal notices and mailings shall be assessed to the applicant.

4. Building Permits.
 - a. The Town believes the review of building and electrical permits for wind energy facilities requires specific expertise for those facilities. Accordingly, the permit fees for such facilities shall be increased by administrative costs in an amount as set by resolution of the Town Board, plus the amount charged to the Town by the outside consultant hired by the Town to review the plans and inspect the work. In the alternative, the Town and the applicant may enter into an agreement for an inspection and/or certification procedure for these unique facilities. In such case, the Town and the applicant will agree to a fee arrangement and escrow agreement to pay for the costs of the review of the plans, certifications or conduct of inspections as agreed by the parties.”
 - b. The applicant shall, prior to the receipt of a building permit, demonstrate that the proposed facility meets the system reliability requirements of the New York Independent System Operator, or provide proof that it has executed an interconnection agreement with the New York Independent System Operator and/or the applicable transmission owner.
5. Nothing in this section shall be read as limiting the ability of the Town to enter into host community agreements with any applicant to compensate the Town for expenses or impacts on the community. The Town shall require any applicant to enter into an escrow agreement to pay the engineering and legal costs of any application review, including the review required by SEQRA.
6. The Town Board may amend these fees by resolution after a properly noticed public hearing.
7. Tax Exemption. The Town hereby exercises its right to opt out of the tax exemption provisions of Real Property Tax Law § 487, pursuant to the authority granted by Subdivision 8 of that law.
8. Enforcement; Penalties and Remedies for Violations.
 - a. The Town Board shall appoint such Town staff or outside consultants as it sees fit to enforce this section.
 - b. Any person owning, controlling or managing any building, structure or land who shall undertake a wind energy conversion facility or wind monitoring tower in violation of this section or in noncompliance with the terms and conditions of any permit issued pursuant to this section, or any order of the enforcement officer, and any person who shall assist in so doing, shall be guilty of an offense and subject to a fine of not more than \$250 or to imprisonment for a period of not more than 15 days, or subject to both such fine and imprisonment. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue. The Town may institute a civil proceeding to collect civil penalties in the amounts set forth herein for each violation and each week said violation continues shall be deemed a separate violation.”
 - c. In case of any violation or threatened violation of any of the provisions of this section, including the terms and conditions imposed by any permit issued pursuant to this section, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation, to prevent the illegal act.

300-4-6. Animal Care Establishment

- A. The following regulations shall apply to all animal care establishments and will include any establishment that provides veterinary offices, immunizations, diagnosis and treatment of animals, boarding of animals during convalescence, grooming facilities, and general boarding facilities such as kennels, as defined by this Chapter.
- B. The purpose of this section is to promote the general welfare of the residents of the Town of Pomfret by regulating the location and operation of all animal care establishments within the Town's border as defined in this Chapter.
 - 1. Animal boarding facilities shall be located indoors.
 - 2. Exterior exercise areas shall be located to the rear or interior side of the principal building on the lot.
 - 3. Any exterior exercise areas shall be designed to provide shelter against weather.
 - 4. Fencing shall be required around any exterior exercise area. Fencing shall be between six and seven feet in height to prevent escape, and shall be buried a minimum of one foot below ground to prevent escape by digging beneath the fence.
- C. All persons operating a new animal care establishment in the Town of Pomfret must apply for and obtain a special use permit prior to commencing operations. All persons planning to operate an animal care establishment on their own property, or to lease their property for the operation of an animal care establishment in the Town of Pomfret, must apply for a special use permit.
- D. Any application for a special use permit for an animal care establishment shall include:
 - 1. A diagram which displays all buildings and structures to be used for the animal care establishment as well as all other inhabited dwellings within 1,000 feet of any building or structure to be used for the animal care establishment;
 - 2. The location and type of sound and vision buffers to be installed around the buildings and structures to be used for the animal care establishment and any outdoor areas provided for the animals;
 - 3. The maximum number and breed of animals to be kept in any kennels;
 - 4. The method of disposing of and controlling waste produced by animals in any buildings or structures to be used for the animal care establishment;
 - 5. Any other information deemed appropriate by the applicant and/of the Town of Pomfret Zoning Board, as it relates to the consideration of factors as set forth in this Chapter.
- E. In reviewing the application for a special use permit, the Town of Pomfret Zoning Board shall consider the following:
 - 1. Whether adequate space for housing and running the animals is being provided;

2. Whether the buffers being provided will adequately muffle the sounds made by any animals housed in a kennel;
 3. Whether the means of disposing waste is adequate;
 4. The findings of an on-site inspection, should the Town of Pomfret Zoning Board think an inspection is necessary;
 5. The closeness to adjacent properties and effect on character of a neighborhood; and
 6. Any other factors which will protect the health, safety and well-being of the residents of the Town of Pomfret.
- F. All other provisions in this Chapter relating to the application and review of special use permits, not inconsistent with this section, shall be applicable to special use permits for animal care establishments.
- G. Preexisting animal care establishments as defined herein, prior to the passage of this Chapter shall not be subject to regulations under this section generally. However, if an existing animal care establishment becomes a nuisance, any of the conditions of this Chapter can be imposed after public hearing.
- H. The Town may refuse to grant a special use permit or may revoke such permit if any of the following are found:
1. There is a material and deliberate misstatement in the application for the special use permit for the operation of an animal care establishment;
 2. The applicant has been convicted of violating any federal, state or local law relating to the disposition and/or treatment of animals;
 3. The applicant has failed to provide adequate food, housing, water or sanitary conditions for one or more animals under the control of the applicant, as defined by this Chapter, the New York State Agricultural and Markets Law and the USDA, as revealed in the inspection procedures as outlined below.
- I. Issuance and the acceptance of a special use permit for the operation of an animal care establishment grants upon the Town the authority to conduct inspections of the kennel premises after providing twenty-four-hour prior notice to the permit holder or operator by either the Dog Control Officer or Code Enforcement Officer in person or in writing.
- J. Any inspection shall be conducted by the Town's Building Inspector and/or Code Enforcement Officer.
- K. If the inspection reveals a violation of any of the provisions of the special use permit for the operation of an animal care establishment of this section, the Town of Pomfret may revoke the special use permit.

300-4-7. Bed and Breakfast

- A. Bed-and-breakfast establishments shall be permitted subject to the issuance of a special use permit by the Zoning Board and to the following conditions and limitations listed below.
- B. A bed-and-breakfast shall only be permitted as a special use in a single-family, detached dwelling in the AR, RR, NR, LR, MUH, and MUC Districts.
- C. The residential character of the dwelling shall be preserved and no structural alterations, construction features, or site features of a nonresidential nature shall be incorporated.
- D. The owner/operator of the bed-and-breakfast shall live full-time on the premises.
- E. No more than 1 non-resident of the premises shall be engaged as employees of the operation.
- F. A bed-and-breakfast shall have a maximum of three guest rooms with no more than two guest rooms sharing a single bathroom.
- G. No more than 8 guests per night shall be permitted in any bed-and-breakfast establishment, and the Zoning Board may fix a lower maximum in the permit.
- H. The maximum length of stay for any guest is 15 consecutive days.
- I. Parking shall not be in the front yard. The Zoning Board shall approve the location and screening of all required parking spaces.
- J. No permit shall be granted for a bed-and-breakfast if another bed-and-breakfast exists or a permit has been issued for a bed-and-breakfast within 500 feet from the property for which a new permit is requested.
- K. Only dwelling units existing at the time of enactment of this section shall be eligible for conversion to a bed-and-breakfast. Accessory buildings and accessory structures including garages shall not be utilized as a bed-and-breakfast.

300-4-8. Cannabis Use

- A. It is the intention of the Town Board in enacting these supplemental regulations to promulgate rules and regulations pertaining to retail dispensaries and on-site consumption licenses under the Cannabis Law of the State of New York.
- B. All cannabis or marijuana establishments located within the Town of Pomfret shall be licensed under the State of New York Marijuana Regulation and Taxation Act and/or the Cannabis Control Board established thereunder. No facility shall be permitted in the Town of Pomfret unless licensed under New York State Law.
- C. No cannabis or marijuana facility, licensed or permitted under New York State Law, shall be located in the Town of Pomfret, except in the Mixed-use Corridor (MUC) or Employment Center (EC) Districts.
- D. Retail dispensaries and on-site consumption establishments, licensed by the State of New York, shall also be required to obtain a special use permit from the Town of Pomfret. A special use application shall be submitted to the Town of Pomfret Zoning Board of Appeals, which shall conduct a public hearing.
- E. A separate special use permit is required for each premise in which a cannabis establishment is to be operated. No two or more different cannabis establishments may be treated as one premise, nor may more than one such establishment be co-located on a single premise or property.
- F. All cannabis establishments shall be contained within a secure building or structure. All structures used for cannabis establishments shall be set back from the front, side, and rear property lines in accordance with the Town of Pomfret Zoning Laws for the district. No cannabis establishment shall have a gross floor area in excess of Two Thousand, Five Hundred (2,500) square feet.
- G. All aspects of the cannabis establishment relating to possession, processing, sales, distribution, dispensing, or administration of cannabis or marijuana products, related supplies, and materials shall not be visible from the exterior of the business. No outside storage of any sort shall be permitted, including product or product waste associated with the licensed establishment.
- H. No on-site consumption premise or dispensary shall be located within a building that contains residential units, including transient housing, hotel, motel, dormitories; nor shall they be located inside a movable or mobile structure such as a car, van, truck, bus, trailer, or cargo container.
- I. No licensed cannabis premise or premises in the Town of Pomfret shall be located within five hundred (500) yards of any residence, school, licensed childcare center, playground, park, athletic field, or any other facility where children commonly congregate, church, place of worship, or any other licensed cannabis/marijuana dispensary or onsite consumption premise. The distance shall be measured in a straight line from the nearest point from the property boundary line of the licensed premise to the nearest point of the boundary line of the property on which the use or uses just recited is located.
- J. No licensed cannabis/marijuana establishment shall be located within the same premises as any medical office or any other professional practitioner authorized or licensed to prescribe the use of medical marijuana.

- K. The hours of operation of all licensed cannabis/marijuana establishments in the Town of Pomfret shall be limited to Monday through Saturday, from 10:00 a.m. to 9:00 p.m.; and Sunday from 12:00 p.m./noon to 6:00p.m.
- L. No cannabis or marijuana establishment may operate a drive-thru or drive-in service.
- M. Any and all signs related to the licensed cannabis/marijuana establishment must be located on the same premises or building where the licensed establishment is located; and further must be in compliance with all sign regulations under the Town of Pomfret Code. No sign, advertisement, display, or other promotional material which utilizes graphics related to marijuana or marijuana paraphernalia, or symbols related to marijuana shall be visible to the public from any public right-of-way, including, but not limited to highways, streets, sidewalks, pedestrian walkways.
- N. Every licensed cannabis/marijuana establishment in the Town of Pomfret shall be ventilated in such a manner:
 - 1. That no pesticides, insecticides, or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere or ground;
 - 2. No odor from any licensed cannabis/marijuana establishment can be detected by a person with a normal sense of smell at the exterior of the building wherein the licensed cannabis/marijuana establishment is located, or at any adjoining use or property; and
 - 3. All licensed cannabis premises in the Town of Pomfret shall be designed, constructed, and operated so that no odor from the premises emanates from the building hosting the licensed premises.
- O. Any violation of this section shall be treated as a violation under the Penal Law of the State of New York, with penalties prescribed under the Penal Law of the State of New York and the Criminal Procedure Law of the State of New York.

300-4-9. Cluster Residential Development

- A. Cluster residential provisions for single-unit subdivisions and attached multi-unit development projects are intended to allow flexibility where desirable to permit and encourage high-quality development of relatively large undeveloped sites.
- B. Any cluster residential development shall preserve rural viewsheds, natural features and open space.
- C. Provisions for common green space, parkland and recreational facilities are encouraged.
- D. Standards for individual lot area, lot coverage, lot width and other dimensional requirements should be reduced from standards of the respective zoning district in order to maximize efficiency of land use and infrastructure, and provide a desirable level of innovative cluster development.
- E. Standards for development of single-unit cluster residential subdivisions:
 - 1. There shall be at least 5 acres of contiguous undeveloped land to develop a single-unit cluster residential subdivision.
 - 2. Minimum lot area and minimum lot width per single-unit residential use shall be determined based on the proposed provision of water and sewer facilities and other physical constraints of the property. Minimum lot area should be between 7,000-12,000 square feet per dwelling unit and minimum lot width should be between 35-75 feet.
- F. Standards for development of multi-unit cluster residential subdivisions:
 - 1. There shall be at least 5 acres of contiguous undeveloped land to develop a multi-unit cluster residential subdivision.
 - 2. Multi-unit residential uses shall be a specially permitted use in the district in which the project is proposed.
 - 3. Minimum lot area and minimum lot width per multi-unit residential use shall be determined based on the proposed provision of water and sewer facilities and other physical constraints of the property. Minimum lot area should be between 10,000-14,000 square feet per dwelling unit and minimum lot width should be between 50-100 feet.
- G. Standards for all cluster residential subdivisions
 - 1. The maximum number of units allowed for a cluster residential development sited on a single contiguous parcel shall be no greater than that which would be allowed under a conventional subdivision layout in the parcel's zoning district.
 - 2. Where the plat falls within 2 or more zoning districts, the Zoning Board may approve a cluster residential development representing the cumulative density as derived from the sum of all units allowed in all such districts, and may authorize actual construction to take place in all or any portion of one or more of such districts.

3. An approved municipal or community sewage system and water system must be utilized.
4. Permitted uses shall be limited to the residential uses permitted in the district in which the cluster development is located.

H. Open space requirements for cluster residential development

1. General Open Space Requirements

- a. Open space land should generally remain contiguous and should be designed to connect with adjacent open space areas, if any. No individual parcel of common open space should be less than 1 acre except for roadway median strips, traffic islands, walkways, trails, courtyards, play areas, parks and recreation facilities, drainageways leading directly to streams, historic sites or unique natural features requiring common ownership protection.
- b. No portion of any house lot may be used for meeting the minimum required open space land unless encumbered with a conservation easement.
- c. Required open space land shall consist of a combination of primary conservation areas and secondary conservation areas, which are both outlined in this section.

2. Primary Conservation Areas

- a. Primary conservation areas include freshwater wetlands and other water bodies with a one-hundred-foot adjacent area acting as a surrounding buffer, streams, lands within the one-hundred-year floodplain, prime farmland and hydric soils, and lands having slopes of 25% or more.
- b. The proposed subdivision design shall minimize disturbance of these environmentally sensitive areas. Primary conservation areas shall be included in the required open space area to the greatest extent practical.

3. Secondary Conservation Areas

- a. Secondary conservation areas include special features of the property that would ordinarily be overlooked or ignored during the design process such as agricultural lands, woodlands, significant natural areas and features, stone walls, rock outcrops, hedgerows, meadows, historic structures and sites, historic rural corridors, scenic viewsheds, scenic roads and trails.
- b. Secondary conservation areas shall be included in the required open space area to the greatest extent practical such that protecting these resources will, in the judgment of the Zoning Board, achieve the purposes of this section. The applicant shall demonstrate that primary and secondary conservation areas will be protected by identifying and delineating building envelopes and home sites on the proposed subdivision plan.

4. Active Farmland and Agricultural Land

- a. Active agricultural land with farm buildings may be used to meet the minimum required open space land.
- b. Access to open space land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations on non-agricultural lands.
- c. To minimize land use conflicts, land used for agricultural purposes shall be buffered from residential uses through a setback of at least 200 feet. No clearing of trees or understory growth shall be permitted in this setback (except as may be necessary for street or trail construction). Where this buffer is un-wooded, the Zoning Board may require vegetative screening to be planted, or that it be managed to encourage natural forest succession through “no-mow” policies and the periodic removal of invasive plant and tree species.

5. Recreational Land

- a. Recreational land should be considered for all cluster residential developments. This may include park space, playgrounds, trails and other similar recreational facilities.
- b. A recreational fee in lieu may be imposed to accommodate the foreseeable recreational needs of a proposed cluster subdivision. Such fee shall be imposed only after the Zoning Board has made a finding that a proper case exists for requiring that a park or recreational facility is needed by the subdivision’s residents for recreational purposes. The Zoning Board, in making such findings, shall evaluate present and anticipated future needs for park and recreational facilities based on the size, location, and neighborhood context of the proposed cluster subdivision.

300-4-10. Commercial Campground

- A. The purpose of this section is to protect existing neighborhoods from intense development associated with travel trailer parks. Consideration will be given to aesthetics, buffers, safe access and other reasonable conditions.
- B. Travel trailer parks shall comply with the following standards:
 - 1. All lots shall be a minimum of 100 feet from any public highway.
 - 2. A 100-foot wide buffer zone of appropriate vegetation shall be provided around the circumference of the park. No travel trailers or other structures shall be located in the buffer area.
 - 3. Minimum lot sizes shall be 2,500 square feet for a vacation camp and 1,500 square feet for overnight camps.
 - 4. Access to the park must be designed to assure safe and convenient movement of traffic into and out of the park with a minimum disruption of traffic on adjacent public roads. This shall include a minimum clear view of 150 feet while pulling out onto the adjacent public roadways.
 - 5. Walkways shall be provided to service buildings.
 - 6. All park roadways shall be a minimum of 50 feet from any property line except for the entry and exit roads.
 - 7. Park roads shall be paved in order to minimize the creation of dust or mud.
 - 8. The maximum length of occupancy per year shall be 6 months. Trailers shall not be utilized as a permanent residence.
 - 9. Accessory uses such as snack bars, recreational facilities, showers, laundromats, etc., customarily associated with travel trailer parks shall be permitted. However, the land utilized in this manner should not account for more than 10% of the total area of the park and the services shall be directed towards the occupants of the park. Finally, no commercial character shall be visible from outside the park and such services shall only be allowed when the number of sites is sufficient to support these services.
 - 10. All docks shall begin on the shoreline no less than 200 feet from all property lines abutting the shorelines.
 - 11. The park owner shall be responsible for having supervisory personnel or premises around the clock during the camping season for the purpose of policing the premises within the limits prescribed to him by law.
 - 12. The park owner shall prevent any undue proliferation of smoke, dust or any pollution of the air or water by the campers or campsites.

300-4-11. Commercial Shooting Range

- A. In order to promote safety and the general welfare of the public and to maintain the quality of neighborhoods, the following regulations are to be enforced for all commercial ranges. New ranges shall be allowed only in accordance with the following conditions.
- B. The operation of a commercial range, such as a shooting club, shall be subject to the following conditions:
 - 1. Safety considerations. All ranges shall be so located and directed so as to present the safest situation possible with respect to the existing neighborhood. Appropriate signage shall be posted to warn people of the existence of a shooting range.
 - 2. Time of day. Ranges shall only be utilized for target practice for the period specified in the permit.
 - 3. Character of neighborhood. The density, types of structures, etc., shall be considered.
 - 4. Other conditions. Unlisted conditions deemed necessary.

300-4-12. Drive-Through Establishment

- A. Drive-through establishments shall be specially permitted in the MUC District.
- B. Each drive-through facility and its associated use shall provide ingress and egress so as to minimize traffic congestion. There shall only be one access point for both ingress and egress.
- C. Drive-through facilities, including any protective canopies, signage, drive-through travel lanes, or other associated elements, shall meet the setback requirements for the property.
- D. Stacking space for these facilities shall not impede on- or off-site traffic movements. The stacking space shall be delineated from other internal areas using pavement markings that are identifiable during all seasons.

300-4-13. Fuel Tank

- A. The purpose of this section is to promote the safety of residents from fire and explosion resulting from gasoline/volatile liquid tanks. As a secondary purpose, the maintenance of aesthetic values in residential neighborhoods is also promoted.
- B. In districts where fuel tanks are specially permitted, the following conditions shall be followed:
 - 1. A minimum of 1 acre shall be required.
 - 2. All requirements of the Uniform Code and NFPA shall be met.
 - 3. All district development standards shall be met.

300-4-14. Fuel Station

- C. No fuel pump, parking area, or outdoor service facility shall be located within 20 feet of any designated street line or within 40 feet of any property line.
- D. All fuel tanks shall be underground and comply with all New York State Department of Environmental Conservation regulations.
- E. No fuel station shall be located within 500 feet of another fuel station.
- F. A solid masonry wall, fencing, landscaping or any combination thereof shall screen all lot lines abutting or adjacent to residential districts or uses. Said screening shall not be less than 4 feet, but no more than 6 feet in height.
- G. No more than one curb opening shall be permitted for each 50 feet of frontage along any street.

300-4-15. Gas Compressor

- A. Gas transmission compressors are capable of producing unacceptable environmental intrusion, especially where residential uses are prevalent. In order to avoid unreasonable use of property resulting in substantially reduced use-value of adjacent inhabited or uninhabited properties, this section shall regulate the location and installation of all gas compressors not under the jurisdiction of the NYS Public Service Commission. Generally, the section is intended to preserve and protect the general welfare, health and safety of the public while still promoting the transmission of natural gas in a reasonable environmentally acceptable manner.
- B. In districts where gas compressors are permitted, a special use permit shall be required for the placement of a new gas compressor.
- C. All new gas compressors shall be considered at a public hearing, which shall be subject to all public hearing requirements in accordance with New York State Town Law.
- D. All owners of parcels as well as renters within 2,000 feet of a proposed gas compressor shall be notified in writing of the public hearing. Compliance shall take place within two months of receipt of a written decision by the Zoning Board. A longer compliance period may be granted by the Zoning Board if the cost of the alterations are significantly high.

- E. Conditions. All gas compressors shall be located and designed such that the nuisances associated with the use shall be minimized. It shall be unlawful for any person or firm to make, continue, or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers comfort, repose, health, peace or safety to others. The following specific conditions shall be met:
1. The site shall be appropriately located with consideration given to predominant wind direction, topography, location of dwelling units, and any other reasonable conditions as deemed necessary by the Zoning Board.
 2. All new gas compressors covered by this section must be located such that lands subject to a 40 decibels or higher noise level produced by a new compressor shall be covered by a noise easement clearly delineating the maximum noise level allowed at any inhabited dwelling unit or proposed site of a dwelling unit. Preexisting leases shall not negate the requirement for a noise easement as described above.
 3. Prior to being granted a permit for the placement of a gas compressor, the owner of the proposed compressor shall be responsible for verifying the compressor and quieting devices (silencer, low speed fan, barriers such as walls or berms, etc.) as proposed will meet the specified decibel level requirements. A certified noise consultant must certify in writing that the requirements will be met. Additionally, after placement of the compressor is completed along with the specified quieting devices the same certified noise consultant must verify that the 40 decibels requirements are not exceeded. This certification must be accomplished within 30 days or the compressor shall be only operational during daylight hours until it is brought into compliance.
 4. The compressor and quieting devices must be properly operated and maintained such that the noise level will not rise above the specified permissible levels. If it becomes apparent to the permitting board that the noise levels are not in compliance, the Board may require the owner of the compressor to do corrective maintenance and again, at the owner's expense, have the compressor noise level verified by a certified noise consultant. This certification must be accomplished within 30 days or the compressor shall be only operational during daylight hours until it is brought into compliance.
 5. Where it is deemed necessary, either a natural or man-made barrier may be required for the purpose of minimizing the noise associated with a gas compressor. In extreme cases, where no alternative is available, a fully enclosed acoustically designed structure may be required.
 6. Each gas compressor shall be identified with a conspicuously placed sign identifying the compressor, its location and the name of the person/company responsible for the unit in case of emergency. Additionally, a twenty-four-hour emergency telephone number should be included.
 7. Any other reasonable conditions as deemed necessary by the Zoning Board.
 8. All permit requests for gas compressors shall be subject to an environmental review, in accordance with state law. No special use permit shall be granted until this environmental review has been accomplished by the Town of Pomfret.

300-4-16. Home Occupation

- A. The purpose of these provisions is to preserve the residential character of neighborhoods in primarily residential districts or areas.
- B. The provisions in this section shall not apply to land uses that are agricultural in nature and are within either the AR or RR Districts or if the property in question is in Chautauqua County's Agricultural District.
- C. Home occupations may be conducted in a dwelling provided that:
 - 1. No person other than members of the family residing on the premises shall be engaged in such occupation;
 - 2. Any and all home occupations shall be clearly incidental and subordinate to the area of the dwelling unit that is used for residential purposes by the residents thereof, and the total floor area of any and all home occupations shall not exceed 20% of the floor area of the dwelling unit;
 - 3. There shall be no change in the outside appearance of the buildings or premises or other visible evidence of the conduct of such home occupation.
 - 4. There shall be no exterior display or indication of the use other than a permitted sign, in accordance with Article 6.
 - 5. No home occupation shall be extended into an accessory building.
 - 6. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be provided by an off-street area located other than in a required front yard.
 - 7. No equipment or process shall be used in such home occupation, which equipment or process creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses of persons off the lot if the occupation is conducted in a single-family residence or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio or television receivers off the premises or causes fluctuation in the line voltage off the premises.
 - 8. Any person desiring to carry on a home occupation must obtain a special use permit. This permit may be granted by the Zoning Board.

300-4-17. Keeping of Livestock and Poultry

- A. This section is intended to protect residential neighborhoods from certain nuisances such as noise and odor associated with the keeping of poultry, as defined in this Chapter.
- B. No person shall be able to keep livestock including chickens and/or poultry, on a property located in the LR, COS or EC Districts.
- C. The keeping of poultry shall be permitted in the AR, RR and MUC Districts and specially permitted in the NR and MUH Districts.
- D. The keeping of all other livestock as defined by this chapter shall be permitted in the AR, RR and MUC Districts.
- E. A maximum of 8 chicken hens on any lot occupied by a single-unit home shall be permitted in the NR and MUH Districts.
- F. The keeping of roosters and other domesticated fowl shall be prohibited in the NR and MUH Districts.
- G. The keeping of poultry shall be confined to the owner's property as described in this section so as not to create a nuisance or cause any damage to neighboring properties.
- H. Truck bodies shall not be used to shelter poultry.
- I. Dimensional Regulations for Coops
 - 1. These dimensional requirements shall apply to all districts where the keeping of poultry is permitted and specially permitted.
 - 2. Free-range chickens shall not be permitted. All chickens and/or poultry must be housed within coops or runs as defined in this Chapter.
 - 3. A structure to shelter the hens shall be located in the rear yard, a minimum of 10 feet from any lot line and a minimum of 15 feet from any dwelling. The coop shall not exceed 144 square feet in total floor area and shall not exceed 12 feet in height from grade in the NR and MUH Districts.
 - 4. Fencing/restraint systems shall be installed and maintained to confine chickens to the rear and/or side yards behind the front setback of the home.
 - 5. Loose chickens observed or photographed anywhere other than the rear and/or side yard of the premises shall be considered prima facie evidence of inadequate restraining systems.
 - 6. Chicken coops shall be constructed of ordinary construction materials using ordinary construction techniques. Improvised shelters such as, but not limited to, truck caps, tanks or vessels, truck bodies, et seq., are specifically prohibited.
 - 7. Chicken coops shall be kept in a clean and sanitary condition and shall be adequately ventilated and protected from weather.

J. Sanitation

1. No person or persons shall harbor, maintain, or possess poultry of any description in such a manner as to create offensive odors or unsanitary conditions.
2. Feed and materials must be maintained in animal-proof containers.

K. Additional regulations pertaining to livestock and poultry

1. Animals, poultry and birds shall not be raised for profit or as a commercial venture. They shall only be allowed when kept for recreational use or for home consumption of its products.
2. Farm animals which create a nuisance due to odor, noise, etc. shall be prohibited.
3. Farm type animals shall be fenced so as not to be able to come within 50 feet of adjacent residential structures nor within 10 feet of any boundary line.
4. Horses and/or cows shall be allowed for noncommercial use where over 10 contiguous acres of pasture are present. The maximum number of horses or cows allows shall be based on the acres of pasture available with one acre being required per horse or cow.

300-4-18. Land Use Regulations for Lily Dale

- A. This section is intended to allow for the existing and unique density and mix of uses to continue to be permitted and occur within the Lily Dale community adjacent to upper Cassadaga Lake.
- B. The following shall apply only to land that is both in the LR District and within the Lily Dale sub-district.
 - 1. A bed-and-breakfast, as defined in this Chapter, shall be specially permitted in accordance with the provisions in § 300-3-7.
 - 2. A restaurant, as defined in this Chapter, shall be permitted.
 - 3. Retail Shop or Store
 - a. Any retail shop or store or service shop or land use shall be permitted in a space that does not exceed 500 square feet.
 - b. A retail shop or store, as defined in this Chapter, shall be specially permitted in a space that exceeds 500 square feet.
 - 4. Service Shop or Land Use
 - a. A service shop or land use, as defined in this Chapter, shall be specially permitted in a space that exceeds 500 square feet.
 - 5. Home Occupation
 - a. Home occupations shall be specially permitted in accordance with § 300-4-15 of this Chapter.
 - b. Any home occupation that exceeds 20% of the total square footage of the structure shall be allowed, subject to additional special permit provisions in this section.
 - 6. Special Permit Provisions
 - a. Any application for a use under § 300-4-17 B4, B5 and B6 shall be made by the lessee/occupant of such property in Lily Dale, with the consent of the Lily Dale Assembly.
 - b. Consent from the Lily Dale Assembly shall have first been obtained and presented in writing as part of any application for a special use permit. Said application shall be consented to and joined in by the Lily Dale Assembly.
 - c. Proof of Assembly participation and/or approval shall be evidenced by written resolution or other written submission on letterhead, signed by a duly authorized officer of said Assembly, setting forth the facts and proceedings of said General Assembly of Lily Dale therein pertinent to said application.
 - d. All such applications for special use permits shall be heard and approved by the Town of Pomfret Zoning Board, and shall meet all the requirements of any special use permit as required by this Chapter and other relevant State laws.

300-4-19. Mining Operation

- A. In addition to the regulations required by NYSDEC, all mining operations shall be regulated by this section, the purpose being to limit the nuisances associated with mining and ensure that adjacent residential neighborhoods are protected. See the definition of “Mining Operation” for more details.
- B. In districts where mining is allowed, the following conditions shall be considered:
 - 1. Equipment Location. The placement of power-activated sorting machinery, blasting, stockpiling, etc., shall only be as close to residential structures on adjacent parcels as is necessary. In determining the minimum distance, the following will be considered:
 - a. Type of machinery and potential nuisances associated with it;
 - b. Density of development in vicinity;
 - c. Prevailing winds;
 - d. Size of operation or number of trips per day; and
 - e. Attitudes of adjacent property owners.
- C. Fences may be required for public safety as determined by the Zoning Board. Consideration will be given to the topography, type of operation, and equipment being used, size of the lot, population density, and any other reasonable characteristic. Height of fencing shall be determined by the Zoning Board, but shall be no higher than 8 feet.
- D. All mining operations shall be restored to a safe and an aesthetically pleasing state within two months after termination of the operation. Termination shall be considered to have taken place when no materials have been extracted for a one-year period and there is no intention of reactivation of the site. A special use permit shall be required to keep a site in an active status after no reasonable amount of activity has taken place for five years.
- E. Mining operations in existence before the enactment of this Chapter shall be subject to § 300-4-14 C-D above. In addition, any expansion or enlargement (purchase of additional property or use of property beyond scope of permit) of such operations shall be subject to all regulations in this Chapter within reason as determined by the Zoning Board.

300-4-20. Mobile and Manufactured Home

- A. This section is intended to ensure that mobile and manufactured homes are placed properly with minimal aesthetic and safety standards implemented.
- B. In districts where mobile and manufactured homes are specially permitted, the conditions below shall apply.
- C. The floor space for an individual mobile or manufactured home shall be a minimum of 760 square feet.
- D. A continuous masonry perimeter shall be installed at a frost-free depth. Such perimeter requires adequate ventilation and the manufacturer's recommended vapor barrier installed according to the manufacturer's recommendations, and is necessary prior to the issuance of a certificate of occupancy.
- E. Mobile or manufactured homes shall meet all of the Town requirements for a single-unit home including general dimensional, aesthetic, and parking requirements applicable to single-unit homes in the residential district in which the mobile or manufactured home is to be sited.
- F. All requirements with the New York State Uniform Code shall be compatible with the construction of a mobile or manufactured home.
- G. All mobile and manufactured homes shall comply with HUD requirements for home installation standards prior to being placed on a lot.

300-4-21. Mobile and Manufactured Home Park

- A. Minimum Lots, Dimensions, Setbacks
 - 1. All parks shall consist of a minimum of 5 acres and shall be designed for a maximum of 5 units per acre.
 - 2. An appropriate vegetation or open space buffer shall be located around the perimeter of the park. Type and size of the buffer shall be determined by the density and type of adjacent uses and the need for separating the uses. As a minimum, a twenty-five-foot buffer (open space or vegetation) shall be required with the permitting board determining the need for a greater buffer.
 - 3. All mobile or manufactured homes and other development shall be set back 100 feet from the edge of any public road. Mobile homes shall be set back a minimum of 20 feet from the edge of the park's private road.
 - 4. Each mobile or manufactured home shall be located on a lot which is a minimum of 5,000 square feet and a minimum of 50 feet in width. The width requirement may be waived for corner lots.
 - 5. Mobile or manufactured homes with enclosed additions shall be spaced a minimum of 25 feet from each other.

B. Streets, Walkways, and Off-Street Parking

1. Entrances and exits to the park shall be safely designed.
2. Private roads shall be a minimum of 16 feet wide and shall be both paved and approved by the Fire Chief for use by emergency vehicles.
3. Private roadways shall be maintained in such a manner so as to permit safe year-round travel.
4. Walkways from the street to front doors shall be required in addition to a patio for each individual mobile or manufactured home.
5. Lot numbers shall be visible from the private roadway.
6. Off-street parking shall be the same as those for a single-unit home in the underlying zoning district.
7. Off-street parking shall be paved with a minimum of 400 square feet for each individual mobile or manufactured home.

C. Recreation

1. Open space and recreational areas shall be set aside and improved at central locations at a rate of 700 square feet per mobile home. They shall be maintained in a manner conducive to recreational use.

D. Frost-free Foundation

1. A continuous masonry perimeter installed at a frost-free depth. Such perimeter requires adequate ventilation and the manufacturer's recommended vapor barrier installed according to the manufacturer's recommendations, and is necessary prior to the issuance of a certificate of occupancy.

E. Outdoor Storage

1. Due to the limited lot sizes and close proximity of mobile homes, no outdoor storage of tools, materials, equipment, junk or any other items, other than registered vehicles or patio-related items, shall be allowed. Where storage sheds are necessary to comply with this requirement, they shall be located in rear yards and out of sight to the greatest degree possible, substantially anchored, and well-maintained. Location of storage buildings shall be in compliance with the Codes of New York State, by special use permit.
2. The use of truck bodies for storage shall not be permitted.

F. Drainage

1. The park shall be located on a well-drained site properly graded to insure rapid drainage and freedom from stagnant pools of water.

G. Park Design

1. It is recommended that the design of the park not be barracks-like in nature and not be designed on the gridiron pattern with identical rectangular spaces. The angling of spaces and the clustering of mobile homes around culs-de-sac could be considered. Should this latter type of design be hampered by the minimum area requirement, the permitting board shall have the authority to alter those requirements by up to 10%.

H. Lighting and Utilities

1. All driveways and walkways within the park shall be lighted at night with electric lamps of such candle power and so situated as may be directed by the Zoning Board. It is recommended that consideration in each instance be given to the construction of all utilities underground. It shall be required that all lines between the meter and lot be underground.

I. Accessory Retail or Service Uses

1. Accessory uses such as recreational facilities, convenience stores, laundromats and mobile home sales/service, customarily associated with mobile home parks, shall be permitted. However, the land utilized in this manner should not account for more than 5% of the total area of the park. Finally, no commercial character shall be visible from outside the park, and such services shall only be allowed when the number of sites is sufficient to support these services.

J. Bond

1. At the discretion of the Zoning Board, the developer may be required to obtain an appropriate bond to insure compliance with conditions attached to the special use permit/site plan review.

300-4-22. Motor Vehicle-Based Use

- A. In order to preserve the character of neighborhoods and promote safe and aesthetically pleasing motor vehicle-based uses, all such shops shall be reviewed in accordance with the conditions in this article.

B. Storage of Vehicles Awaiting Repairs.

1. As many as 3 vehicles which are awaiting repairs shall be allowed to be stored outside without screening. These vehicles shall be neatly arranged and kept in 1 contiguous location.
2. If more than 3 vehicles which are awaiting repairs are stored outside, they shall be screened from adjacent properties, public sidewalks and streets with a combination of fencing and/or landscaping.
3. The temporary storage of more than 10 vehicles which are awaiting repairs shall be prohibited.

C. Hours of Operation.

1. The hours of operation shall be derived so as to limit noise during nonbusiness hours. Hours of operation should be between 7:00AM-5:00PM.

2. Hours of operation for a car wash facility should be between 7:00AM-8:00PM

D. Abandoned Tanks and Pumps.

1. All abandoned tanks and pumps shall be secured in accordance with the New York State Uniform Fire Prevention and Building Code.

E. Ingress and Egress.

1. No garage, motor vehicle service station, private garage, or car wash facility shall have a vehicular entrance closer than 200 feet to an entrance to a church, school, theater, hospital, public park, playground or fire station. Such measurement shall be taken at the shortest distance between such entrances across the street, and along the street frontage if both entrances are on the same side of the street or within the same square block.

F. Location.

1. All vehicles being offered for sale shall be set back a minimum of 25 feet from the street edge and neatly arranged in an organized manner. The 25 feet setback shall be landscaped and buffered from the street in accordance with the Town's rural design principles.

2. All vehicles that are not being offered for sale shall be located behind the main building setback line and should be located in the rear of the building rather than in a side lot. It may be required that these vehicles be screened by a fence to reduce visibility

300-4-23. Multi-unit Dwelling

A. Development applications for multi-unit dwelling units shall be subject to the following special use requirements:

1. All dwelling units and structures shall comply with the standards set forth in the NYS Uniform Code. Said standards shall take precedence to this zoning ordinance should there be a conflict.

2. All multi-unit building façades shall be designed with consistent materials and treatments. The consistency of materials and treatments shall also be maintained for a single building possessing multiple façades. May not apply to the conversion of and/or re-use of an existing building.

3. No driveway or parking lot should be closer than 25 feet to the front of any building or 10 feet to the side or rear of any building.

4. In the case of an enclosed garage provided as a portion to the main structure, distance requirements for driveways providing access to these accommodations shall not apply. Driveway distance requirements may not apply to the conversion of and/or re-use of an existing building.

5. Buildings shall not have large or long continuous wall or roof planes. Varied roof heights, projecting bays, gables, recesses, porches, and other architectural design elements shall be used to visually divide larger buildings. To prevent an out-of-scale, monolithic appearance, larger buildings shall be visually divided into smaller sections no longer than 50 feet in length by gaps, recesses, or other architectural devices in such a way that adjacent buildings and facades define a continuous street wall and pedestrian-friendly streetscape. May not apply to the conversion of and/or re-use of an existing building.
6. Multi-unit buildings shall be laid out so that multiple entrances face the street. Each entrance shall be connected by sidewalk, where practicable as determined by the Zoning Board. Garage entrance/exit doors are prohibited on the front façade of buildings.
7. Accessory structures, such as clubhouses, pools, pool buildings, storage buildings, and trash enclosures, shall be designed and positioned in a manner that does not disturb or encroach upon the streetscape (pedestrian walkways, roadways, etc.) or adjacent residential neighborhoods.
8. Parking areas shall be in the side or rear yards, but no closer than 20 feet from any property line and shall comply with all other regulations of the district in which the use is located.

300-4-24. Outdoor Display and Sales

- A. The display area shall not exceed 15% of the gross floor area of the primary structure.
- B. The display area shall not block automotive traffic, private sidewalks, fire lanes, or other travel lanes.
- C. Such displays shall be allowed adjacent to a principal building wall and extending to a distance no greater than five feet from the wall.
- D. Such displays shall not be permitted to block windows, entrances or exits and shall not impair the ability of pedestrians to use the building or surrounding sidewalk.
- E. The items for display are labeled for sale and said area shall not be used for storage purposes.
- F. Personal garage, lawn, yard, or rummage sales shall be allowed without permits. No more than two such sales shall be held on a single property in any 12-month period, and each sale shall have a maximum duration of three days, with a minimum of 7 days between the ending of a sale and the beginning of a new sale. At the end of a sale, all items that are for sale shall be moved so as not to be visible from the public right-of-way.

300-4-25. Outdoor Storage

- A. Outdoor storage shall not be allowed in the front yard.
- B. Outdoor storage shall not occupy more than 15% of the entire lot area.
- C. All outdoor storage shall be fully screened to ensure the area is not visible from the public right-of-way or adjacent residential districts or uses.
- D. Screening shall be of sufficient height and density to completely hide storage from public view, including from streets and other public accessways.
- E. All screening shall be maintained in such a manner as to present a neat and orderly appearance.
- F. Junk Vehicles
 - 1. Junk vehicles, as defined by this Chapter, shall be prohibited in the front yard in all districts. All junk vehicles shall be located in the rear or side yards. All junk vehicles shall be placed a minimum of 50 feet from property lines of adjacent landowners and roadways.
 - 2. Junk vehicles shall be screened from the adjacent properties and roadways to the greatest degree possible.
 - 3. Up to 1 junk vehicle shall be allowed in all districts except for the LR and MUC Districts.
 - 4. These provisions shall not apply to unlicensed or unused vehicles that are essential to existing agricultural operations and land uses.
 - 5. In no instance shall a truck body from a junk vehicle be used for outdoor storage or the keeping on livestock or other animals.
- G. Outdoor Restoration of Vehicles.
 - 1. A maximum of 1 vehicle per 2 acres of land shall be allowed for restoration with a maximum of 3 allowed.
 - 2. The entire restoration shall take a reasonable time to accomplish.
 - 3. Such vehicles shall be located so as to create the least nuisance possible.
 - 4. Noise associated with the restoration shall be limited to the hours of 8:00AM-8:00PM.
 - 5. Restoration shall be for personal use and not for profit.

300-4-26. Ponds, Manmade

A. Purpose

1. In order to minimize traffic safety problems associated with ponds inappropriately located near roadways and to reduce the probability of creating an attractive nuisance in densely populated areas, the following conditions shall apply.

B. Permits From Other Agencies

1. Any permits needed beyond the special use permit shall be determined by the applicant and obtained prior to local approval of a special use permit from the Zoning Board.

C. Location and Setbacks

1. New ponds shall be located in a manner that minimizes the likelihood of vehicular access or conflict. To the extent practicable, manmade ponds shall be located in the rear of a property.
2. All ponds shall be set back a minimum of 50 feet from the right-of-way of any roadway.
3. Any area and dimensional requirements for accessory uses shall apply in the underlying district in which the pond is to be located.

D. Water Safety

1. In locations where there are 1 or more neighboring housing units within 100 feet of the proposed site for the pond, one of the following shall be achieved:
 - a. A fence at least 4 feet but no more than 6 feet in height shall completely surround the pond;
or
 - b. The pond shall be designed such that the slope from the shore 10 feet towards the center of the pond shall be a maximum of 25% (3 feet of drop per 12 feet of run).

300-4-27. Private Swimming Pool

- A. The primary purpose of this section is to promote the safe installation and maintenance of private swimming pools.
- B. All installations shall meet the requirements of the New York State Uniform Fire Prevention and Building Code. Private swimming pools shall be required to meet the following conditions:
 - 1. It shall be unlawful to maintain, construct, erect, install, modify, alter, demolish or change any swimming pool or to permit any such acts without first obtaining a zoning permit, and then only as an accessory to a dwelling for the private use of the owners or occupants of such dwelling and their families and guests.
 - 2. Every permanent private swimming pool, and every portable private swimming pool less than four feet high, now existing or hereafter constructed, installed, established or maintained, the wall or supporting structure of which is not at least four feet above ground level, shall be enclosed with a fence of durable construction of a type approved by the Building Inspector of not less than four feet in height or by a wall or a building or structure. A fence of similar construction and height erected on the lot lines, which, with additional fencing of any open areas completely encloses the pool area, shall be deemed a sufficient enclosure for the purpose of this section. All pools (in ground and above ground) shall be provided with one or more substantial, self-closing and self-latching gates or doors of at least the height of the fence, and said enclosure and gates or doors thereof shall be so designed and constructed as to reasonably prevent any person from gaining access beneath, through or over the same. Every gate or door of such fence shall be kept securely locked at all times when the pool is not in use. Every wading pool shall be enclosed by durable wall, barrier or fence as described unless such outdoor wading pool is:
 - a. Emptied when not in use or unattended; or
 - b. Covered with a suitable, strong protective covering fastened or locked in place when not in use or unattended.

300-4-28. Recreational Vehicle Storage

- A. No recreational vehicle shall park or remain upon any public highway, public sidewalk or parking lot exceeding 4 hours or park on public lands owned by or under the control of the Town of Pomfret, unless in a location where camping is allowed, and then for a period not exceeding 48 hours
- B. Recreational Vehicles may be parked for the purpose of storage under the following terms:
 - 1. Recreational vehicles and trailers shall be parked in the rear yard of any residential or mixed-use lot.
 - 2. Recreational vehicles may be parked on the side yard of any residential or mixed-use lot only if rear yard parking is impractical because of size, contour or other physical difficulties after a review by the Town Building Inspector, who shall issue a report to the Zoning Board waiving the rear yard storage requirements.
 - 3. Recreational vehicles and trailers shall be prohibited in the front yard except between the dates of April 15 through November 15.
 - 4. No recreational vehicle or trailer shall be parked or stored closer than 5 feet from any lot line.

300-4-29. Roadside Stand

- A. In order to minimize traffic safety problems associated with retail sales at roadside stands, the provisions in this section shall apply.
- B. Roadside stands may be erected and used for the sale of agricultural products.
- C. Permanent buildings for such purposes must comply with all dimensional requirements for principal buildings in the underlying district.
- D. Temporary or movable roadside stands may be located not nearer to the street than 25 feet and there shall be a minimum of 2 off-street parking spaces to accommodate the vehicles of customers and eliminate traffic hazards.

300-4-30. Sexually-oriented Use, Adult Use

- A. Purpose
 - 1. It is the purpose of this article to regulate sexually oriented businesses in order to promote the health, safety, morals and general welfare of the citizens of the Town of Pomfret, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Town. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene materials

- B. The following provisions shall apply to the location of adult entertainment facilities: adult entertainment facilities shall be permitted only in EC District, upon approval of a special use permit.
- C. No adult entertainment facility shall be permitted within 500 feet of any lot with a residential use.
- D. No adult entertainment facilities shall be permitted within 1,000 feet of any:
 - 1. Public facility, park or recreation facility;
 - 2. School; or
 - 3. Place of worship.

300-4-31. Shopping Center

- A. Purpose
 - 1. Commercial shopping centers or malls in districts where allowed shall be subject to special use permits, and where 5,000 or more square feet of floor space is being proposed, site plan review requirements shall also apply. Each development proposal shall be evaluated on its own merits with reasonable conditions attached.
- B. The following shall be considered for approval of a special permit:
 - 1. Safe ingress and egress into and out of the site.
 - 2. Alleys, fire lanes, and other means of fire equipment movement shall be adequate for year-round movement.
 - 3. Dry hydrants shall be required where year-round access to pond, stream or other source of water for fighting fires is not available.
 - 4. Sufficient parking in accordance with § 300-5-7 of this Chapter.
 - 5. Loading and unloading spaces in accordance with § 300-5-6 of this Chapter.
 - 6. Signs shall conform with all relevant provisions in Article 6 of this Chapter.
 - 7. Buffers, either natural or man-made, shall be required wherever a shopping center is to be adjacent to

300-4-32. Telecommunications Facility

- A. The Town of Pomfret (hereinafter “Town”) recognizes the increased demand for wireless communication transmitting facilities and the need for the services they provide. Often, these facilities require the construction of a communications tower and/or similar facilities. The intent of this article is to regulate the location, construction and modification of telecommunication facilities in accordance with the guidelines of the Telecommunications Act of 1996 and other applicable laws by: The following provisions shall apply to the location of adult entertainment facilities: adult entertainment facilities shall be permitted only in EC District, upon approval of a special use permit.
1. Facilitating the provision of wireless telecommunication services to the residents and businesses of the Town.
 2. Regulating the location and number of towers/antennas in the Town.
 3. Minimizing adverse visual impacts of these towers/antennas through proper design, siting and screening.
 4. Preserving and enhancing the positive aesthetic qualities of the natural and man-made environment in the Town.
 5. Avoiding potential damage to adjacent properties from tower failure or falling debris through engineering and careful siting of tower structures.
 6. Providing for the general health, safety and welfare of the Town in and by the regulation of these facilities as such regulation is permitted under applicable federal and/or state law.
 7. Requiring the joint use of towers when available, and encouraging the placement of antennas on existing structures wherever possible.
- B. Permit Required
1. A telecommunications facility is permitted in any district zoned EC and on any municipal property, only if the Town of Pomfret Zoning Board (hereinafter “Zoning Board”) grants a special use permit for such facility pursuant to this article. The Zoning Board shall have the right to waive any provision of this article for facilities whose total height above ground does not exceed 35 feet.
 2. Any and all grants of a special use permit for a telecommunications facility under this article shall be nonassignable and nontransferable and shall not run with the land, notwithstanding anything in the general zoning laws of the Town to the contrary.
 3. All applications for telecommunications facilities shall be treated as a Type I action under the State Environmental Quality Review Act. Except that if the application is solely for a modification, amendment, change or replacement to the type of antenna array placed on an existing tower; or a co-location application to place additional antenna array on an existing tower, then such

application shall not be treated as a Type I action under the State Environmental Quality Review Act.

C. General Standards for Issuance of a Permit

1. No permit or renewal thereof or modification of the conditions of a current permit relating to a telecommunications facility shall be authorized by the Zoning Board unless it finds that such telecommunications facility:
 - a. Is necessary to meet current or expected demands for the services supported by the telecommunications facility;
 - b. Conforms with all applicable regulations promulgated by the Federal Communications Commission;
 - c. Is designed and will be constructed in a manner which minimizes its visual impact;
 - d. Complies with all other requirements of this article and any other applicable Town laws, including the Zoning Chapter; and
 - e. Is the most appropriate site within the immediate area for the location of the telecommunication facility.
2. Any application for a permit to construct telecommunication facilities under this article without a designated, contractually bound provider of telecommunications services using same will be deemed incomplete and non-conforming under this article.
3. All applicants are required to provide a report which establishes to the satisfaction of the Zoning Board that the applicant is required to provide service to locations which it is not able to serve through existing facilities which are located either within or outside of the Town, showing the specific locations and/or areas the applicant is seeking to serve.

D. Co-located Antennas Preferred

1. The shared use of existing or approved telecommunication facilities or other structures shall be preferred to the construction of new facilities. Any application for a telecommunication facility permit, or renewal thereof or modification thereof, shall include proof that reasonable efforts have been made to co-locate with an existing or approved telecommunication facility or upon an existing structure. The application shall include an adequate inventory report specifying existing or approved telecommunication facilities and structures within a one-mile radius of the proposed site if the application is for cellular telephone or personal communication use, or a five-mile radius for other services, and outlining opportunities for shared use as an alternative to the proposed location. The applicant must demonstrate that the proposed telecommunication facility cannot be accommodated on all sites in the inventory due to one or more of the following reasons:
 - a. The planned equipment would exceed the structural capacity of the existing or approved

telecommunication facility or structure, as documented by a qualified and New York State licensed professional engineer, and the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost;

- b. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the telecommunication facility or structure, as documented by a qualified and New York State licensed professional engineer, and the interference cannot be prevented at a reasonable cost;
 - c. Existing or approved telecommunication facilities and structures within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and New York State licensed professional engineer; and
 - d. Other technical reasons make it impracticable to place the planned equipment on existing telecommunication facilities or structures.
2. Any proposed telecommunication facility shall be structurally, electrically, and in all respects, designed to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the telecommunication facility is over 100 feet in height, or for at least one additional user if the telecommunication facility is over 60 feet in height, but no higher than 100 feet in height. Telecommunication facilities must be designed to allow for future rearrangement of antennas upon the facility and to accept antennas mounted at varying heights.

E. Siting Preferences

1. If the applicant demonstrates that the proposed telecommunication facility cannot be accommodated on an existing or approved telecommunication facility or upon an existing structure, the Town prefers that the proposed telecommunication facility be located in a higher intensity use district or on higher intensity use property, provided there is a technologically feasible and available location. The Town's preference, from most favorable to least favorable, is as follows
 - a. Municipal or government-owned property, including schools and other institutional sites
 - b. Utility property;
 - c. Places of worship sites, when camouflaged as steeples or bell towers; and
 - d. Commercially zoned sites.
2. Any request by the Town for information on a preferred alternate site shall not unreasonably delay the application for a special use permit.

F. Application Requirements All applicants for a special use permit for a telecommunication facility shall make written application to the Town which application shall include the following in triplicate:

1. Town-supplied permit application form;
2. Town-supplied long form environmental assessment form in accordance with the State Environmental Quality Review Act;

3. Site plan, in form and content acceptable to the Zoning Board, prepared to scale and in sufficient detail and accuracy showing at a minimum:
 - a. The exact location of the proposed tower, together with guy wires and guy anchors, if applicable;
 - b. The maximum height of the proposed tower;
 - c. The detail of the type of tower (monopole, guyed, freestanding or other);
 - d. The color or colors of the tower;
 - e. The property's boundaries, including a property survey;
 - f. Proof of the landowner's consent to construct the tower at the location if the applicant is not the landowner, including any lease agreement;
 - g. The location of all structures on the property and all structures on any adjacent property within 50 feet of the property lines, together with the distance of these structures to the tower;
 - h. The names of adjacent landowners;
 - i. The location, nature and extent of any proposed fencing and landscaping or screening;
 - j. The location and nature of any proposed utility easements and access roads, if applicable; and
 - k. Building elevations of accessory structures or immediately adjacent buildings.
4. Proof of efforts to co-locate as required in § 300-4-29 D of this article;
5. Proof of compliance with § 300-4-29 D of this article regarding accommodations for future antennas;
6. "Before" and "after" propagation studies prepared by a qualified radio frequency engineer demonstrating existing signal coverage, contrasted with the proposed signal coverage resulting from the proposed telecommunication facility;
7. A search ring prepared by a qualified radio frequency engineer and overlaid on an appropriate background map demonstrating the areas within which the telecommunication facility needs to be located in order to provide proper signal strength and coverage to the target cell;
8. A statement from the applicant indicating:
 - a. Why it chose the proposed site;
 - b. If the site is not a co-located facility, the availability of a suitable structure within the search ring which would have allowed for co-located antennas, with correspondence with other telecommunications companies concerning co-location attached;

- c. If the site is not a preferred site as described in 300-4-30 E of this article, to what extent the applicant explored locating the proposed tower in a preferred site, with documentation attached; and
 - d. Its policy regarding co-location on the proposed tower with other potential future applicants.
9. A report from a qualified New York State-licensed professional engineer which (in case of a tower):
 - a. Describes its height and design, including a cross section;
 - b. Demonstrates its compliance with applicable structural standards; and
 - c. Describes its capacity, including the number and type of antennas it can accommodate.
 10. A report from a qualified New York State-licensed professional engineer which (in case of an antenna(s) mounted on an existing or proposed telecommunication facility or structure:
 - a. Describes whether and how the telecommunication facility or structure is suitable to accept the antenna;
 - b. Describes the proposed method of affixing the antenna(s) to the telecommunication facility or structure, including details of all fixtures and couplings; and
 - c. Indicates the precise point of attachment.
 11. An agreement by the applicant, in writing, to remove the telecommunication facility if such facility becomes technically obsolete or ceases to be used for its originally intended purpose for 12 months;
 12. An agreement by the applicant, in writing, to secure a financial security bond with the Town as assigned, in an amount fixed by the Zoning Board to cover the cost of removal of the telecommunications facility should the Town be required to do so;
 13. The Town reserves the right upon review of the application to request reasonable, additional, visual and aesthetic information it deems appropriate on a case-by-case basis and as it may pertain to a residential zone, historic district, agricultural use or other special situation; and
 14. An application fee as set by the Town.
- G. Design Standards
1. Each proposed telecommunications facility shall meet the following design requirements:
 - a. Each telecommunications facility shall be separated from residential dwellings, schools, houses of worship, places of public assembly and designated historical districts by the greater of 500 feet or 5 times the height of the facility. The Zoning Board may modify this condition if the facility is attached to an existing structure or for other satisfactory reasons supported by substantial evidence.
 - b. Towers shall meet the setback requirements of the underlying zoning district.

2. Height restrictions. The maximum height of any tower, including all antennas and other attachments, shall not exceed 150 feet. The height of towers shall be determined by measuring the vertical distance from the tower's point of contact with the ground, or if attached to a structure, the structure's point of contact with the ground, to the highest point of the tower, including all antennas and other attachments. When towers are mounted on other structures, the combined height of the structure and the tower must meet the height restriction.
3. Fall zone. All permits shall include a fall zone surrounding any support, which fall zone must have a radius of at least equal to the height of such support tower and any antenna attached thereto. The entire fall zone may not include public roads, must be on private property, either owned or leased by the applicant, or for which the applicant has obtained an easement. It may not contain any structure other than those associated with the telecommunications facility and may not be located within any setback area established by this article. If the facility is attached to an existing structure, fall zone requirements may be modified by the Zoning Board.
4. Lighting. Towers, antennas and masts shall not be artificially lit and shall not display strobe lights unless otherwise required by the Federal Aviation Administration, or other federal, state or local authority. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots or similar areas may be attached to the tower.
5. Signs and advertising. No tower shall contain any signs or advertising devices. Notwithstanding the foregoing, the Zoning Board may require appropriate signage indicating ownership of the facility and telephone numbers in case of emergency.
6. Camouflaging. Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by the Federal Aviation Administration, or other federal, state or local authorities.
7. Screening. Reasonable landscaping consisting of trees or shrubs to screen the tower from adjacent residential property, or when located in a residential zone, is required. Existing on-site trees and vegetation shall be preserved to the maximum extent possible.
8. Fencing. Towers and auxiliary structures shall be surrounded by a fence or wall at least eight feet in height of a design approved by the Code Enforcement Officer, so as to make intrusion extremely difficult but with limited visual impact. Barbed wire is not to be used in residential areas or on public property unless specifically permitted by the Zoning Board.
9. Alarm systems. Towers shall be equipped with an alarm system providing that any intrusion or attempt to climb the fence or wall is signaled to both the local law enforcement agency and to the owner of the facility.
10. Climbing pegs. There shall be no permanent climbing pegs within 15 feet of the ground on any tower.
11. Roadways. A road turnaround and one parking space shall be provided to assure adequate year-round emergency and service access. Maximum use of existing roads, public or private, shall be made.

12. Other uses. All other uses ancillary to the antenna/tower and associated equipment, including but not limited to a business office, maintenance depot or vehicle storage, are prohibited from the site unless otherwise permitted by the zoning of the particular district.

H. Continuing Standards

1. All telecommunication facilities, both predating and postdating this article, shall fulfill the requirements of this section. The Town Code Enforcement Officer is empowered to assist all local law enforcement agencies to enforce these regulations as follows:
2. The sufficiency of the financial security bond shall be confirmed at least every five years by an analysis of the cost of removal and property restoration performed by a qualified and New York State licensed professional engineer. The results of such analysis shall be forwarded immediately to the Town Code Enforcement Officer. If the bond amount in force is insufficient to cover the cost of removal and restoration, the permit holder shall immediately increase the amount of the bond to cover the full costs.
3. The facility shall be inspected every two years for structural integrity by a qualified and New York State licensed professional engineer, who must submit a copy of his/her inspection report to the Town Code Enforcement Officer.
4. Any work to augment or repair the facility must comply with all applicable code requirements, and a building permit shall be obtained to conduct such work.
5. Any additional antennas, reception or transmission dishes, other similar devices proposed for attachment to an existing facility shall require review in accordance with this section. The intent of this requirement is to ensure the structural integrity, visual aesthetics and land use compatibility of the facility upon which the additional device(s) are to be installed. The application for approval to install additional device(s) shall include certification from a qualified and New York State licensed professional engineer, indicating that the additional device(s) will not adversely affect the structural integrity of the facility. A visual impact analysis shall be included as part of the application for approval to install one or more additional communications devices on an existing facility.
6. No outside storage of vehicles, materials or waste shall be allowed, except for limited periods when the facility is undergoing construction, additions, repairs or renovations.
7. The facility shall be maintained in good order and repair at all times. Paint and other finishes on towers, auxiliary buildings, fences and walls shall be renewed as required to maintain the good appearance of the facility. Accumulations of rubbish, papers and other trash on the ground shall be promptly removed. Trees, grass and shrubs shall be trimmed as necessary. Access roads are to be maintained in good working order.

- I. Exemptions. The following are exempt from these regulations:
 - 1. Repair and maintenance of existing towers and antennas;
 - 2. Antennas used solely for private, residential household television and radio reception; and
 - 3. Satellite antennas regulated by the Federal Communications Commission.
- J. Penalties for Offenses
 - 1. This article is adopted pursuant to the zoning and planning powers granted to the Town under the Town Law of the State of New York. In the event of any violation of this article or any permit(s) issued hereunder, the Town may seek enforcement under any available authority, including but not limited to Town Law § 268 as from time to time amended.
 - 2. Any facility receiving a Town special use permit under this article which does not substantially meet the requirements and/or conditions of that permit shall have its permit revoked, and the tower and other facilities shall be removed within 90 days of notification of revocation by the Town.

300-4-33. Topsoil Excavation

- A. During the construction of a foundation, general landscaping or any other extensive excavating project, a person, firm, corporation, etc., shall not strip, excavate or otherwise remove soil/gravel unless the following conditions are met:
 - 1. Topsoil is replenished or left with sufficient amounts to support future development needs.
 - 2. The creation of steep slopes shall be limited to the greatest extent possible.
 - 3. Runoff will not be caused to flow into neighboring properties, to pool, or cause erosion. A stormwater drainage plan for both the construction period and the long term should be considered when slope and soil types dictate. A minimum amount of siltation should be allowed to leave the site.
 - 4. All of the above conditions shall be met within one year from the time the project started. However, the Municipal Board shall have the power to grant extensions or shorten the time frame for just cause after receiving a written request which includes the reasons for the request.

Article 5

Development Standards

300-5-1. Access to Public Street

- A. Except as otherwise provided for in this Chapter, every building shall be constructed or erected upon a lot or parcel of land which abuts upon a public street unless a permanent public easement of access to a public street was of record prior to the adoption of this Chapter.
- B. This section, however, shall not preclude the creation of a private road on a 50-foot right-of-way which connects to a public road and serves 5 or more subdivided lots.
- C. Upon request from a developer and/or property owner, the Town Board shall consider the takeover of a private roadway, but only after assurances are received by all involved parties that the roadway will be constructed to standards specified by the Town. The Town of Pomfret is in no way obligated to take over any road even if it meets specified road construction standards.
- D. If there are fewer than 5 lots involved in a subdivision or other development scenario, a legal right-of-way shall be required to connect all lots to a public road when said lots are not already abutting a public road.

300-5-2. Contiguous Parcels

- A. When 2 or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the district in which they are located, are contiguous and are held in one ownership, they shall be used as 1 lot for such use.

300-5-3. Corner Lots

- A. Both street sides of a corner lot shall be treated as front yards in the application of any and all dimensional and parking location requirements.

300-5-4. Fences and Walls

- A. Fences and walls shall require a building permit and shall conform with the provisions of this section.
- B. Fencing used for agricultural purposes on property that is being agriculturally used, as defined by this Chapter, shall be exempt from all regulations except for the provisions under § 300-5-4 H. Additionally, non-boundary fencing located more than 25 feet from any property line shall be exempt.
- C. The height of a fence or wall shall be measured from the natural grade, excepting where there is a retaining wall, the height shall be measured from the average of the ground levels at each side of the retaining wall, and further excepting that any fence or wall on the uphill side of such retaining wall may be at least 4 feet high.

D. Front Yard Fences

1. An open or solid fence not exceeding 4 feet in height, measured from sidewalk grade, shall be permitted within the front yard area. For the purposes of this Chapter, the front yard area shall be deemed to be bounded by the front property line and the front building line of the principal building and the side property lines enclosing such front yard. Any yard which abuts a public street shall be subject to regulations for front yard fences.

E. Side Yard Fences

1. An open or solid fence not exceeding 8 feet in height, measured from the natural grade along the line of installation, shall be permitted within the side yard areas. For the purposes of this article, the side yard areas shall be deemed to extend along a side property line to the nearest side of the principal building from the front building line of such principal building to the rear building line

F. Rear Yard Fences

1. An open or solid fence not exceeding 8 feet in height, measured from the natural grade along the line of installation, shall be permitted in the rear yard areas at any point where such rear yard abuts the rear yard or an adjoining property. For the purposes of this article, the rear yard area shall be deemed to be bounded by the rear building line of the principal building and the rear property line and the side property lines enclosing such rear yard. In all other cases, an open or solid fence not exceeding six feet in height shall be permitted in the rear yard area

G. Barbed, Electrical, and Other Fences

1. In no case shall barbed wire, spikes, chipped glass, electricity, or similar materials or devices be used in conjunction with or as part of any fence. Exceptions to this provision may be permitted upon issuance of a conditional use permit issued by the Zoning Board where it can be determined that:
 - a. The fence is needed to prevent entry to an area which could be hazardous to the health, safety, or welfare of a person or persons.
 - b. The fence is needed to keep animals other than common household pets, from leaving the site. This may also apply to animal care establishments
 - c. Where, in the Zoning Board's opinion, resources are presented which justify the need for such a fence due to general community interests or interests of safety.
2. Where such fences are permitted, the fact that they are either barbed or electrified shall be clearly indicated on the fences at intervals of not more than 75 feet. Such fence shall be eight feet in height and must not be detrimental to the health, safety, or welfare of any person encountering it.
3. No chain-link fencing shall be permitted in the front setback of any structure or property.

H. Erection, Fixture and Maintenance

1. All fences shall be fixed permanently in the ground to ensure its stability.
2. No fence or wall shall be erected in a way that creates a traffic hazard or endangers public safety.
3. All fences shall be maintained by the property owner as to meet the original design specification.
4. The finished side of all fences must face adjacent properties.
5. Only durable materials that are generally accepted and used by the industry shall be used for fences and walls.
6. Fences, walls and/or hedges shall not be located so as to cut off or reduce visibility at intersections as required under § 300-11.

300-5-5. Lakeshore Regulations

A. Due to the unique features associated with lakeshore properties and the need to protect views, the following regulations shall apply to parcels located adjacent to Lake Erie, Cassadaga Lake or Bear Lake. In cases of conflict with other regulations, the most stringent shall apply.

B. Setbacks

1. No principal structures intended for inhabitation shall be permitted within 50 feet of the shoreline based on high water levels.

C. Accessory Structures

1. Accessory structures or buildings shall require a special use permit from the Zoning Board, with consideration given to the following:
 - a. Visibility from adjacent parcels;
 - b. Structure is sufficiently anchored to prevent movement due to wind, high waters, etc.;
 - c. Structure does not extend beyond the natural high-water shoreline;
 - d. Other reasonable conditions deemed necessary by the Zoning Board.

D. Breakwalls.

1. Any modifications of a shoreline shall be in accordance with Corps of Engineers Regulations.

E. Fences.

1. Any fence established within 50 feet of the shoreline (based on high water level) shall require a special permit from the Zoning Board. Consideration shall be given to the supplemental section on fences, and the following:
 - a. Visibility from adjacent parcels;
 - b. Height of fence;
 - c. Type of fence; and
 - d. Other reasonable conditions deemed necessary.

300-5-6. Loading and Unloading

A. Off-Street Loading Spaces

1. Off-street loading and/or unloading spaces for non-agricultural commercial vehicles while loading and/or unloading shall be provided for new uses where it is deemed that such facilities are necessary to serve the use or uses on the lot. At least one off-street loading and/or unloading space shall be provided for all commercial and industrial uses in the MUC and EC Districts.
2. Each loading space shall not be less than 10 feet in width by 55 feet in length.
3. Off-street loading spaces shall be located on the same lot or parcel as the structure or building for which it is provided, to the maximum extent practicable.

B. Location of Loading Spaces

1. No loading space shall be located closer than 10 feet from a lot line abutting any residential zoning district.
2. No loading spaces shall encroach upon any sidewalk, street, public right-of-way, or fire lane.
3. No loading spaces shall occupy any required off-street parking spaces or access driveways. This requirement can be waived by the Zoning Board of Appeals if it can be shown that loading will take place outside of business hours and that vehicle/pedestrian ways will not be obstructed.

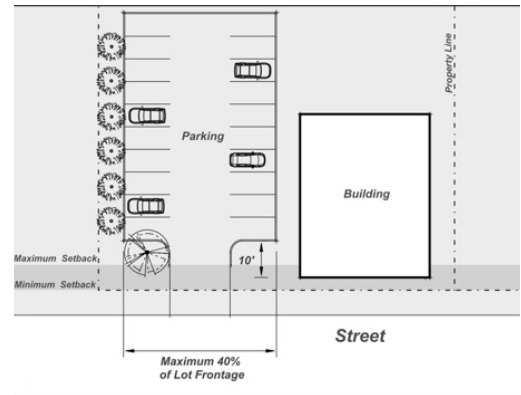
300-5-7. Off-Street Parking

A. Purpose.

1. Off-street parking spaces with a proper and safe access shall be provided within a structure or lot to adequately serve the uses on each lot within a zoning district. Any application for a building permit for a new or enlarged building structure or change in use shall include with it a plot plan drawn to scale and fully dimensioned, showing any parking in compliance with the regulations of this Chapter. However, in existing commercial districts, parking shall only be required to be provided for new development where it is reasonably possible.

B. Parking Location Requirements

1. No parking shall be permitted in the front yard, except for single-unit and two-unit residential dwellings on a designated driveway.
2. Off-street parking should locate in the rear yard, but may also locate in the side yard or underground. Side yard parking shall be located a minimum of 10 feet behind the front facade of the building.
3. Parking, or access to parking, in the side yard shall not exceed 40% of lot frontage.



4. For any off-street parking facility required by this article, a layout plan showing entrances, drives, and parking stalls shall be submitted to the Planning Board as part of the site plan review process, detailed in § 300-7-8.
5. All off-street parking spaces shall be arranged so that all backing movements take place within the parking area and not in a public street, except for single-unit and two-unit dwellings.

C. Size requirements

1. A required off-street parking space shall be an area of not less than 162 square feet, not less than nine feet wide by 19 feet long, exclusive of access drives or aisles, ramps, columns or office and work areas. Aisles between vehicular parking rows shall not be less than 12 feet in width when serving automobiles parked at a forty-five-degree angle in one direction and not less than 20 feet in width when serving automobiles parked perpendicular to the aisles and accommodating two-way traffic.

D. Minimum Required Parking

1. The table below shall dictate the parking spaces to be provided and satisfactorily maintained for each land use type.

OFF-STREET PARKING REQUIREMENTS MASTER TABLE	
Land Use	Spaces Required
All Residential Uses	1 space per dwelling unit
Mixed Use and Commercial Uses	1 space per 500 square feet
Industrial Uses	1 space per 500 square feet
Public and Institutional Uses	1 space per 300 square feet
Other Uses not Listed	1 space per 500 square feet

E. Maximum Required Parking

1. Surface parking spaces shall not exceed 110% of the minimums required in § 300-5-7 D above.

F. Materials and Drainage

1. All parking lots and access driveways thereto should be paved with permeable and porous materials that allow for precipitation and surface runoff to infiltrate to the soil below.
2. All materials shall be graded and drained to properly dispose of surface water accumulation.
3. Adequate drainage and grading of the parking lot shall be provided so that surface water does not encroach on any other properties.
4. Owners are responsible for adequate snow removal. The owner, agent, tenant, occupant, or person having charge of any buildings or lands which have associated off-street parking areas shall cause such off-street parking areas to be cleared of snow, ice, or sleet within 12 hours of daylight after snowfall accumulation slows

300-5-8. Preserving Yards, Courts and Open Space

A. Preservation of Yards, Courts and Open Space

1. Rear yards, courts and other open space shall be kept undeveloped in order to meet setback and coverage requirements of this Chapter except as specified in Subsection B below.

B. Regulations for Yard and Landscaping Obstructions

1. The following shall not be considered to be obstructions when located in the preserved yards, courts and open space:
 - a. Open terraces, patios, awnings and canopies, chimneys, trellises, flag poles, open fire escapes, decks, balconies and other similar uses which do not extend more than 40% of the required setback nor come closer to a lot boundary line by more than 40% of the required setback; and
 - b. Bay windows, steps, chimneys, overhanging eaves and gutters and other similar uses shall not extend more than 3 feet from the principal structure nor come within 2 feet of any property lines.
2. All lawns, shrubs and bushes in residential districts shall be kept mowed or trimmed to a reasonable height. No shrubs, bushes or trees may obstruct the view of vehicular traffic.
3. All residential properties shall be kept clear of trash and other debris.

C. Location

1. All yards, courts and open space shall be located on the same undivided lot as the structure for which the setback and area requirements are required.

300-5-9. Rural Commercial Corridor Standards

- ### A.
- These provisions below shall be enforced by the Town of Pomfret Planning Board as part of the site plan review process under §300-7-8 of this Chapter.

B. Development Location and Placement

1. Development shall be located in a manner that maintains the natural topography to the greatest extent feasible.
2. Development shall be sited in a manner to carefully integrate the development into the vernacular landscape while minimizing the adverse visual and environmental impacts.
3. To the extent practicable, development shall be placed as to retain existing vegetation patterns such as wooded hills, open fields, wood lots, and hedgerows.

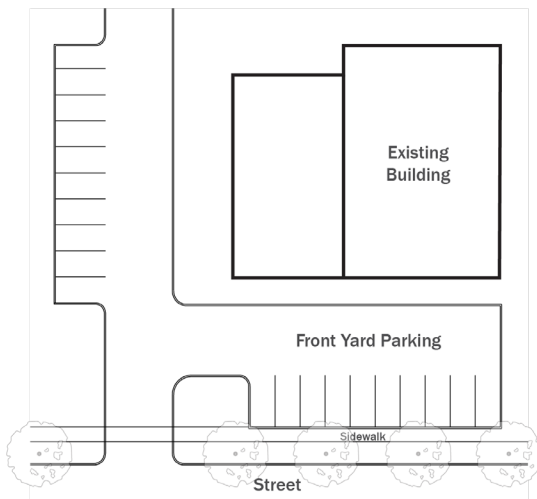
C. Street Trees

1. As properties redevelop along commercial corridors, street trees shall be planted along a property's front lot line.
2. 1 street tree shall be planted for every 40 feet of lot frontage.

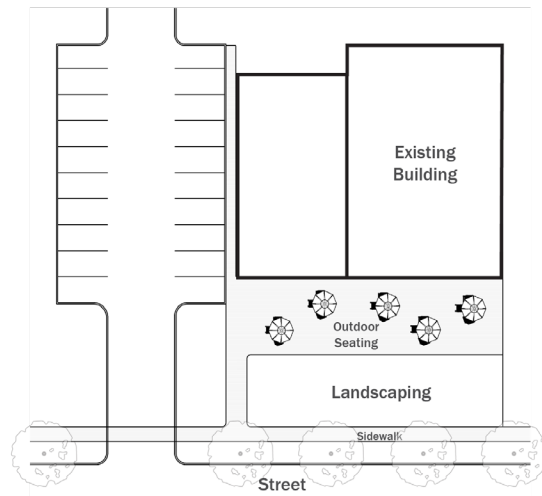
D. Parking Location for Commercial Corridors

1. Parking shall be located in either the side or the rear yard for development along NYS Route 60 and US Route 20.
2. New development and redevelopment along commercial corridors in the Town of Pomfret shall utilize larger front setbacks for a combination of landscaped space and quasi-public space such as outdoor seating. The graphic below demonstrates how side or rear yard parking provides more visual appeal than front yard parking.

Front Yard Parking - Less Visually Appealing



Side Yard Parking - More Visually Appealing



300-5-10. Screening, Buffers and Landscaping

A. Purpose

1. The provision of screening and buffers is intended to separate and shield negative impacts of adjacent land uses and shall be required and approved by the Planning Board.

B. Land Uses Requiring Screening and Buffers

1. A buffer strip that is 10 feet in width shall be provided upon all lots that both contain a non-residential use and abut a residential use. This buffer shall be at any side or rear lot lines for a non-residential use abutting a residential property. This buffer strip may be included within the required side or rear yard setbacks.
2. No parking area, building, or other structure or paved area shall be permitted in any buffer strip with the exception of walks, walls or fences.
3. No storage or display of goods shall be permitted in any buffer strip.

C. Fences and Vegetation

1. Buffer strips shall include either:
 - a. Solid fencing of at least 6 feet in height, and not more than 8 feet in height; or
 - b. Healthy vegetation of at least 6 feet in height, and not more than 15 feet in height.
2. Each buffer strip containing healthy vegetation shall be planted with at least 2 trees and/or shrubs every 10 linear feet.
3. The remainder of each buffer strip which does not contain a fence or healthy vegetation shall be landscaped in grass, ground cover, or other vegetation.

D. Landscape Plan

1. A landscape plan must be submitted and approved for all projects requiring site plan review. No permit for work, including site plan approval, may be issued until a landscape plan has been approved. Unless waived by the Planning Board, the landscape plan(s) shall be prepared by a landscape architect registered to practice in New York State and shall show the following:
 - a. Topography of site before and after landscaping;
 - b. Location and size of all existing plant materials;
 - c. Existing vegetation to be retained and size of all existing trees with a diameter at breast height of five inches or more, including all trees to be preserved or removed;
 - d. Devices by which existing plant material shall be protected from damage during land alteration or land development activities. All disturbed areas not otherwise treated shall be seeded and/or sodded;
 - e. Dimensions of landscaped areas;

- f. Location, type, size, spacing, and number of proposed trees, shrubs, and ground covers;
- g. Property lines, match lines, easements, limit of contract, proposed buildings, paved areas, fences, walls, and utilities;
- h. The location, quantity, size, root ball condition (e.g., B/B or potted) and both scientific and common names of all proposed plant materials, the on-center spacing for hedges;
- i. Typical planting details for trees, shrubs, ground covers, fences, walls, etc.; and
- j. 1A legend, plant list, key, scale drawn to a minimum of one inch per 30 feet, north arrow, and planting detail.

E. Planting Materials

1. All plants shall be living plants, and the use of artificial plants is prohibited.
2. Plants native to Upstate and Western New York should be prioritized and encouraged.
3. A minimum of 80% of surface area shall be covered by living materials, rather than mulch, bark, gravel, or other non-living material. This shall apply to all areas where landscaping is required.
4. Deciduous trees shall be a minimum of 1 ½ inch caliper at the time of planting and shall be 8 feet in height at time of planting.
5. Evergreen trees shall be a minimum of 5 feet in height at time of planting.
6. Upright shrubs shall be a minimum of 24 inches in height at time of planting. Spreading shrubs, deciduous and evergreen, shall be a minimum of 15 inches in diameter at time of planting.
7. Planting beds may be mulched with shredded hardwood, granite chips, river rock or similar materials.
8. All plant material shall be:
 - a. Normally developed and typically representative of stated species and/or variety;
 - b. Stock well-branched and healthy; and
 - c. In accordance with the American Association of Nurserymen’s American Standard for Nursery Stock.

300-5-11. Visibility at Intersections

- A. For the purpose of maintaining sight lines and promoting traffic safety, on a corner lot in any district, no fence, wall, hedge, or other structure or planting more than three feet in height shall be erected or placed within the triangular areas formed by the intersecting street edge lines and the imaginary straight line down between the points 25 feet from the intersecting street edge lines along the street edge lines.

Article 6

Signs

300-6-1. Purpose and General Regulations

- A. The purpose of this Chapter, is to provide equitable methods for individuals, businesses and services to identify themselves , express opinions, reduce signage conflicts, promote traffic and pedestrian safety, and increase the aesthetic value and economic viability in the Town of Pomfret. At no time should these be interpreted to regulate any aspect of the content of any sign.
- B. No sign shall be erected or placed in such a manner as to confuse or obstruct the view or interpretation of any official traffic sign, signal, or device, nor obstruct free and clear vision of any traffic sight lines, intersections, sidewalks, or driveways. Furthermore, no sign shall impede the intended function of any operational doors or windows, ventilation systems, fire escapes or exit-ways or any utility access, or cause any other hazard by its placement.
- C. No permanent, freestanding sign shall be placed or located within any established rights-of-way, tree lawns, easements, drainage swales or disrupt any drainage patterns, unless otherwise authorized pursuant to the Pomfret Town Code or other municipal, County, State or Federal laws or regulations.
- D. Signs shall not be placed on any publicly-owned land or property including but not limited to utility poles, street trees, municipal fences and park lands. Signs established in violation of this section may be immediately removed by the Town of Pomfret.
- E. Illumination
 - 1. Signs may be illuminated (where so indicated in this Chapter) internally or externally.
 - 2. No off-premises neon signs are permitted.
 - 3. Illuminating arrangements for signs shall be such that the light is concentrated on the sign with a minimal spillover cast on the street, sidewalk or adjacent properties.
 - 4. When signs shall be illuminated, external illumination is preferred.
- F. When not directly associated with a commercial activity, all flags , insignia or emblems of any government, school or religious organization are exempt from these regulations.
- G. Each property may be allowed up to two different sign types.
- H. Signs identifying a business or organization which is either defunct or no longer located at the premises shall be prohibited and removed within 90 days of the business closing or relocating.
- I. The Zoning Board shall have the ability to approve any sign which encroaches into the public-right-of-way.
- J. All signs must comply with NYSDOT regulations regarding right-of-way placement and setbacks.
- K. No signs shall utilize moving parts.

300-6-2. Sign Required Permits; Applications

- A. Except as specifically excluded herein, no property owner, lessee, contractor, or other person shall display or cause to be displayed any advertising sign without first obtaining from the Zoning Officer or his designee an approved permit to do so, paying the fees prescribed therefor, and otherwise complying with all of the applicable provisions of this Chapter. Regular maintenance of existing signs that conform with this Chapter shall not require a permit.
- B. Sign permit application procedure shall include submission of detailed plans and information, including the dimensions of the sign, the materials incorporated in its construction, the methods and materials used to support the sign, the type of illumination, if any, and its exact location on the building or premises. A sketch, in color, of the proposed sign drawn to a scale of not less than 1/4 inch to one foot shall be provided.
- C. All electrically illuminated signs shall require an electrical inspection certificate of approval which shall be submitted to the Zoning Officer or his designee before the sign is electrically operated or lit.
- D. Structural features of any given sign shall be required to be constructed to generally accepted design standards as approved by the Zoning Officer, but this Chapter takes precedence with respect to area, location, illumination and other characteristics.
- E. Any person, firm or corporation who proposes a land use or an addition to a land use which requires site plan approval by the Zoning Board and which includes any sign/signs shall include in their site plan submittal the location, size and nature of the proposed sign/signs. Such sign plans, as stated herein, shall also be submitted to the Zoning Officer or Zoning Board of Appeals if applicable or required for approvals, and any fee for said applications, reviews and approvals as set forth by the Town of Pomfret.
- F. The application for a sign permit shall include the authorized signature consent of the owner of the property.

300-6-3. Exempt Signs

- A. The following signs shall not require a permit, provided they meet the requirements specified herein:
 - 1. Signs required by duly constituted governmental bodies and their agencies.
 - 2. Flags or emblems of government, political, civic, charitable, educational, religious, fraternal or similar organization, which are hung on a flagpole or mast.
 - 3. Noncommercial signs with a maximum total area of 16 square feet.
 - 4. Nameplates with a maximum area of 2 square feet.
 - 5. Bulletin boards, kiosks and similar sign structures used for the posting of flyers, posters and notices. Signs shall not equal a total area greater than 16 square feet.

300-6-4. Temporary Signs

- A. Temporary signs shall not require a permit.
- B. Temporary signs shall be permitted in all zoning districts. As many as 4 temporary signs shall be permitted per parcel.
- C. Temporary signs shall not be larger than 6 square feet in area on either of two sides.
- D. Temporary signs shall be limited to a height from grade of not more than 36 inches.
- E. Temporary signs affixed or mounted to a vehicle, wagon or trailer shall not be greater than six square feet in area on either of two sides. This shall not apply to signs affixed to buses, taxis or company vehicles.
- F. Temporary signs may be displayed for up to 45 consecutive days on any individual property.
- G. Temporary signs may be displayed twice per calendar year for a period of up to 45 days.
- H. Temporary signs that are related to a specific event or activity shall be removed within 7 days of the end of the event or activity to which they relate.
- I. Structural features of any given sign are required to be constructed to generally accepted design standards as approved by the Zoning Officer, but this Chapter takes precedence with respect to area, location, illumination and other characteristics.

36-6-5. Prohibited Signs

- A. The following signs and/or devices shall be prohibited in all zoning districts:
 - 1. Billboards;
 - 2. Pennants;
 - 3. Streamers;
 - 4. Windmills;
 - 5. Pole Signs;
 - 6. Flashing, moving, reflective, animated signs;
 - 7. Signs that emit audible sounds, odor or visible matter;
 - 8. Signs which display obscene sexual material per New York State Penal Law;
 - 9. Obsolete signs or signs that are not properly maintained, considered structurally unsound, hazardous or otherwise unsafe; and
 - 10. Awnings, overhanging signs and projecting signs with a clearance greater than eight feet above the ground.

300-6-6. Table of Permitted Signs by District

A. The following shall apply to all permitted sign type:

1. Sign types identified with “P” in the table are permitted as-of-right in the subject zoning district, subject to compliance with all other applicable standards of this zoning Chapter.
2. Sign types not listed and those identified with “-” are expressly prohibited.

SIGN TYPES PERMITTED	AG District	RR District	NR District	LR District	COS District	MUH District	MUC District	EC District	Sign-Specific Regulations
SIGN TYPE									
A-Frame Signs	-	-	-	-	-	P	P	-	
Awning Sign	-	-	-	-	-	P	P	-	
Monument Sign	-	-	-	-	-	-	P	P	
Post and Panel Sign	P	P	P	P	-	P	P	P	
Projecting Sign	P	P	P	P	-	P	P	-	
Wall Sign	-	-	-	P	-	P	P	P	
Window Sign	-	-	-	P	-	P	P	P	

300-6-7. A-Frame Signs

- A. Each legally established use in the MUH or MUC District may have 1 A-Frame Sign.
- B. The sign shall be placed immediately in front of the use to which it refers.
- C. The sign shall be displayed only during business hours.
- D. The sign must be placed between the sidewalk and the front entrance, provided it does not impede pedestrian traffic or safety.
- E. The sign shall not obscure motorist views or sight lines.
- F. The sign shall not be located on public property.
- G. The sign shall be located on the property on which the use is located.
- H. A-Frame signs shall be constructed of rigid, durable, all-weather materials so as not to lose structural integrity in inclement weather. A-Frame signs shall be of a sufficient weight to ensure it will remain in place.
- I. A-Frame signs shall not exceed a sign area of 6 square feet and shall not exceed 4 feet in height.

300-6-8. Awning Signs

- A. Awning signs shall have a minimum height of 10 feet.
- B. Awning signs shall have a maximum area of 2 square feet per linear foot of each building wall facing a public street.
- C. Awning signs shall not extend outside the overall length or width of the awning or extend above the height of the building wall to which the awning is attached.
- D. Awning signs shall only be permitted on the ground floor.
- E. Awning signs shall not be internally illuminated.

300-6-9. Digital Signs

- A. A digital sign may not allow the display message to change more frequently than once every 8 seconds, with a transition period of 1 second or less. Messages may not contain the appearance of motion or animation. Transitions between messages may contain the appearance of motion or animation.
- B. A digital sign must have installed an ambient light monitor, which shall continuously monitor and automatically adjust the brightness level of the display based on ambient light conditions consistent with the terms of this article. Certification must be provided to the Town demonstrating that the sign has been preset to automatically adjust the brightness to these levels or lower. Re-inspection and recalibration may be periodically required by the Town Code Officer in their reasonable discretion, at the owner's expense, to ensure that the specified brightness levels are maintained at all times.
- C. Maximum brightness levels for digital signs shall not exceed 5,000 nits or "Candelas per Square Meter" or "cd/m²" when measured from the signs face at its maximum brightness, during daylight hours. The maximum brightness levels for digital signs shall not exceed 500 nits or "Candelas per Square Meter" or "cd/m²" when measured from the sign's face at its maximum brightness, between sunset and sunrise, as those times are determined by the National Weather Service for the location of the sign.
- D. Brightness of digital signs shall be measured as follows:
 - 1. At least 30 minutes following sunset, a foot-candle meter shall be used to obtain an ambient light reading for the location. This is done while the sign is off or displaying black copy. The reading shall be made with the meter aimed directly at the sign area at the pre-set location.
 - 2. The sign shall then be turned on to full white copy to take another reading with the meter at the same location.
 - 3. If the difference between readings is 0.2 foot candles or less, the brightness is properly adjusted.
- E. Digital signs shall be specially permitted and should only be considered for public or institutional land uses such as government buildings or structures, schools, community centers and other similar uses.

300-6-10. Monument Signs

- A. Up to 1 monument sign may be permitted per lot provided the following conditions are met:
 - 1. The maximum height shall be 4 feet, including the area of the monument's base.
 - 2. The maximum sign area shall be 24 square feet. This excludes the area of the monument's base.
 - 3. The sign shall have a front setback of 5 feet from a public sidewalk or front lot line, whichever is further from the street. Monument signs shall also be set back at least 5 feet from all other lot lines.
 - 4. Internal illumination shall be prohibited.

300-6-11. Post and Panel Signs

- A. All post and panel signs shall have a maximum height of 4 feet.
- B. The maximum sign area for a single post and panel sign shall be 4 square feet in all districts.
- C. The sign shall be mounted on 1 or 2 posts with a maximum diameter of 8 inches and a minimum diameter of 4 inches.
- D. The maximum sign area for a double post and panel sign shall be:
 - 1. 12 square feet in the RR, NR, LR and MUH Districts; and
 - 2. 24 square feet in the AG, MUC and EC Districts.

300-6-12. Projecting Signs

- A. Projecting signs shall not exceed 15 square feet, with the largest dimension not exceeding 5 feet.
- B. The bottom-most edge of a projecting sign shall be at least 9 feet from the ground.
- C. The top-most edge of a projecting sign shall be no higher than 18 feet from the ground or a second-floor windowsill, whichever figure is smaller.
- D. Projecting signs shall not extend farther than 6 feet from the building.
- E. Internal illumination shall be prohibited.

300-6-13. Wall Signs

- A. Up to 1 wall sign shall be permitted per building facade with street frontage.
- B. The maximum height for a wall sign shall be 4 feet.
- C. The maximum sign area for a wall sign shall not exceed 2 square feet in area for each linear foot of public frontage.
- D. Wall signs shall extend no farther than 12 inches from the building wall.

300-6-14. Window Signs

- A. Window signs shall not exceed 25% of the window to which they are applied.
- B. Window signs shall not block any window area required for light, ventilation, or emergency exit by applicable code.
- C. Window signs shall not be in any window higher than the level at which the principal use takes place.
- D. No window sign above the ground floor shall be illuminated.

Article 7

Administration & Enforcement

300-7-1. Enforcement

- A. This Chapter shall be enforced by the Code Enforcement Officer/Building Inspector and the Zoning Enforcement Officer appointed by the Town Board to serve at the pleasure of the Town of Pomfret. No building permit application shall be approved by or a building permit issued by the Town Clerk for any purpose except in compliance with the provisions of this Chapter and such other ordinances, rules and regulations of the Town of Pomfret currently in force at the time of application and also in compliance with the laws of the State of New York, and rules and regulations as promulgated by department and agencies of the state currently in effect at the time of application.
- B. No land shall be occupied and no building or structure previously existing or hereafter erected, altered or extended, or upon transfer of title to a new owner, shall be used or changed in use until a certificate of occupancy is issued by the Building Inspector. A certificate of occupancy shall not be required for transfer of title to a new owner of a single-family dwelling. The Building Inspector shall issue a certificate of occupancy in the same classification as previously issued unless otherwise directed by the Planning Board.

300-7-2. Interpretation

- A. In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements adopted for the promotion of public health, morals, safety and general welfare. Whenever the requirements of this Chapter are at variance with the requirements of any other lawfully adopted rules, regulations and ordinances, the most restrictive, or that imposing higher standards, shall govern.
- B. This Chapter does not repeal, abrogate, impair or interfere with any easements, covenants or agreements now existing between owners of land or premises, except that, whenever this Chapter imposes greater restrictions upon the erection or alteration of structures or the use of the premises than required by such easements, covenants and agreements, the provisions of this Chapter shall control.

300-7-3. Building Permits

- A. Building permits issued prior to the enactment of this Chapter shall expire 1 year after the date of enactment of this Chapter.
- B. Building permits issued under the provisions of this Chapter shall become null and void unless construction has started within 6 months of the date of issuance and construction completed within 15 months. When the time of starting construction or the time for the completion of construction exceeds these periods, application may be made for a new permit extension to the Zoning Board of Appeals, which, for the good reason shown, may extend the permit at no extra cost.
- C. When the application for a building permit is denied, that portion of the fee in excess of the minimum shall be refunded to the applicant.

300-7-4. Nonconforming Uses

A. General applications

1. Except as otherwise provided in this Chapter, the lawful use of any buildings, structures, and/or land at the time of enactment of this Chapter may be continued, and upon application to and approval by the Zoning Board of Appeals, the Zoning Board of Appeals may direct the Building Inspector to issue a certificate of occupancy extending said nonconforming use within the premises as prescribed by the Zoning Board of Appeals to conform as nearly as practical to the requirements for the district in which the building, structure or use is situated.
2. A nonconforming use, if changed to a permitted use for the district in which it is located, shall not thereafter be changed to a nonconforming use, nor shall one nonconforming use be substituted for another simply because it is generically similar to an existing nonconforming use.
3. A nonconforming structure, when removed from any premises, shall not be relocated on the premises except in conformity with the provisions of this Chapter applicable to the district in which it is located.
4. A nonconforming use shall not be extended unless a certificate of occupancy has been issued by the Building Inspector and approved by the Board of Appeals.

B. Restoration and repair

1. Nothing in this Chapter shall prevent the restoration or repair of a building destroyed or partly destroyed by fire, explosion, act of God or act of public enemy subsequent to the enactment of this Chapter, nor shall this Chapter prevent the continuance of such use as existed at the time of the destruction or partial destruction of such building, provided that:
 - a. The restoration is commenced within 6 months after the date of destruction and is completed within 12 months of the date of destruction.
 - b. The destruction of property does not exceed 50% of the total structure or building.
2. Any major restoration to the facade of any nonconforming use shall be approved by the Historic Preservation Board.

C. Abandonment or discontinuance

1. Whenever a nonconforming structure has been abandoned or a nonconforming use discontinued for a period of 12 consecutive months, from a beginning date to be determined by the Zoning Enforcement Officer or Code Enforcement Officer such nonconforming structure or use shall not be reestablished.

300-7-5. Zoning Board of Appeals

A. Appointment and organization

1. The Zoning Board of Appeals shall consist of 5 members. Two alternate members shall be appointed on accordance with Town Law 267, Subdivision 11.
2. The Zoning Board of Appeals Chairperson shall be appointed by the Town Board.
3. The Zoning Board of Appeals shall prescribe rules for the conduct of its affairs.

B. Powers and duties

1. The Zoning Board of Appeals shall have all the powers and duties prescribed by §267 of New York State Town Law.
2. The Zoning Board of Appeals shall be responsible for reviewing and approving or not approving all special use permit applications with the exception of Alternative Energy land uses, excepting those applications under Local Law, including but not limited to alternate energy uses, wherein the Town Board has reserved to itself the authority to act as the permitting body, which authority extends to waiving, varying strict application of said statute.

C. Interpretation

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

D. Area Variances

1. Area variances provide relief of a dimensional nature, (e.g., lot shape or grade) and must be based on practical difficulty. The burden of proof is on the applicant and if relief is warranted, it should be the minimum necessary
2. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider:
 - a. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties would be created by the granting of the area variance;
 - b. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance;
 - c. Whether the requested area variance is substantial;
 - d. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - e. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance.

E. Use Variances

1. Use variances provide relief to an applicant who is denied through application of the Zoning Chapter by the permitting board the right to use land or structure in a certain manner since the use is not listed as an allowable use in the Zoning Chapter. In order to be granted the use variance the applicant must prove that unnecessary hardship exists, and this is accomplished by showing all of the following:
 - a. The applicant cannot realize a reasonable return for a permitted use under the zoning regulations, provided that lack of a return is substantial as demonstrated by competent financial evidence;
 - b. That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.
 - c. That the requested use variance if granted will not alter the essential character of the neighborhood.
 - d. That the alleged hardship has not been self-created.

F. Granting of Variances

1. In granting any variance, be it a use variance or area variance, the Zoning Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable and are in compliance with the intent of the Zoning Chapter. The decisions must be written in the form of a resolution and must state in detail the reasons for granting or denying the variance and the conditions imposed.
2. Temporary variances. The Zoning Board of Appeals may issue, for uses which are of a temporary nature, a variance. Said variance shall clearly state the conditions of the variance to include when it shall terminate, the possibility of renewal, and other conditions deemed necessary.

G. Appeals

1. Any person aggrieved by a decision or determination of the officer responsible for enforcement of this Chapter may appeal to the Zoning Board of Appeals within 30 days of the decision. The Board shall hear and decide all matters referred to it or upon which it is required to pass in accordance with the provisions of this Chapter. In considering an appeal, the Zoning Board of Appeals shall be guided by the circumstances of the situation and the intent of the appellant and shall act as to protect the best interests of the community.
2. All appeals shall be in writing, on forms prescribed by the Zoning Board of Appeals. Every appeal or application shall refer to the specific provision of the zoning regulation involved and shall exactly set forth the interpretation that is claimed, the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted.
3. The Zoning Board of Appeals shall conduct a public hearing where interested parties and citizens can be given an opportunity to appear and be heard, subject to reasonable rules of procedure. Notice of any public hearing shall be provided at least 5 days prior to the date thereof in accordance with New York State Law.

300-7-6. Fees

- A. The Town Board shall establish a schedule of fees, charges and expenses and a collection procedure for building permits, certificates of occupancy, appeals and other matters covered by this Chapter. The schedule of fees shall be posted in the office of the Town Clerk and be altered or amended only Town Board resolution. No public hearing is required for the amendment of the schedule of fees. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.
- B. Persons petitioning for a change of classification of use, a change in district or grant of variance by the Board of Appeals or the initiating of any applications, petitions or proceeding which requires a public hearing shall, at the time of filing such application or petition, pay to the Town Clerk the sum noted as the most current Town Inspection Fee Schedule to cover the cost of publishing the notice of public hearing and other expense incidental thereto.

300-7-7. Penalties

- A. Any person, corporation or other entity who violates the provisions of this Chapter shall be guilty of a violation and shall be subject to imprisonment not to exceed fifteen days or a fine not to exceed \$250 or both such fine and imprisonment. Each week of continued violation shall constitute a separate offense.
- B. Service of the notices shall be sufficient if directed to the owner, agent of the owner or the contractor and left at his last-known place of business or residence, if within the Town of Pomfret, and if no place of business or residence is found, then the notice shall be served by posting in a conspicuous place on the premises which are the subject of the violation.

300-7-8. Site Plan Review

- A. Purpose. Site plan review has the purpose of specifying for all involved parties what the intended design, arrangement and uses of the land shall consist of so as to optimize the physical, social and economic effects on the community for specified types of development.
- B. Authorization. The Planning Board is hereby authorized, pursuant to Section 274(a) of the Town Law of the State of New York, to review and approve, approve with modifications, or disapprove Site Plan Application.
- C. Permits. The permitting board shall be responsible for a site plan review of all commercial development with over 5,000 square feet of floor space or residential development involving more than five dwelling units. In these instances the permitting board shall also be responsible for administering the special use permit requirements, with both processes taking place simultaneously.
- D. Expiration. A site plan review shall be deemed to authorize only one particular use and shall expire if the use shall cease for more than one year.
- E. Hearings. An attempt shall be made to integrate, where appropriate, the site plan review requirements into the required special use permit hearing, thus eliminating the need for two hearings.
- F. Decision requirements. Within 62 days of receipt of the complete application, the Planning Board shall render a decision to the Zoning Officer. If no decision is made within the sixty-two-day period, the site plan shall be considered approved. The applicant shall be notified in writing of its decision with the reasons for the decision specified.
- G. Information required. Sketches drawn to approximate scale will be prepared by the applicant, where feasible, to display the following information:
 - 1. Administration, legal and other miscellaneous information;
 - 2. Project title and date;
 - 3. Name, address and telephone number of applicant, owner (if different), contractor, architect and other major involved parties;
 - 4. Construction schedule to include phasing and the completion date;
 - 5. Performance bond to include amount, public improvements covered and bond approval;
 - 6. Location width and purpose of all easements, public land holdings, leases, covenants, deed restrictions or any other unique land restriction;
 - 7. Record of all applications for permits from the federal, state, or county governments to include approval status;
 - 8. Existing man-made features to be shown; and
 - 9. Boundary lines of project site as well as adjacent properties.

H. Additionally, any relevant information should be provided on the following:

1. Ownership pattern of all adjacent parcels;
2. Existing structures on site and adjacent property to include location, dimensions, height and use;
3. Public roads, private roads or driveways on the site, on- and off-street parking, loading zones, access and egress, pedestrian pathways or sidewalks. Width and elevations should be included;
4. Utilities shall be identified to include location and size of water, sewer, drainage pipes, telephone, electric, gas and TV cable. Additionally, any solar systems should be identified;
5. Miscellaneous features to include fences, signs, outside lighting, public address systems, storage areas and retaining walls shall be shown;
6. Topographic features with a minimum interval of 10 feet but preferably 2 feet. Areas of steep slope should be delineated.
7. Existing natural features to be shown.
8. Geographic features such as depth to bedrock and load-bearing capacity for large development proposals.
9. Hydro-geological features, including drainage and runoff patterns, flood hazard areas, wetlands, depth to groundwater and drainage capacity of soil.
10. Landscaping and vegetative cover, including wooded areas, significant isolated trees, ground cover, shrubs and other similar features. Buffers should be identified.
11. Watercourses to include lakes, streams or ponds.
12. Archaeologically significant areas.
13. Construction materials proposed for use.
14. Significant views of landscapes should be identified.
15. Trash or garbage collection areas shall be identified;
16. Zoning district boundaries shall be identified; and
17. Any other information requested by the Planning Board.

I. Procedure and Approval

1. Within 62 days of the receipt of the application for site plan approval, the Planning Board shall render a decision to the Zoning Enforcement Officer. If no decision is made within the 62-day period, the final site plan shall be considered approved.
2. Upon approving an application for final site plan approval, the Planning Board shall endorse its approval on a copy of the final site plan and shall forward it to the Zoning Enforcement Officer, who shall then issue or cause to be issued a building permit to the applicant if the project conforms to all other applicable requirements.

3. Upon disapproving an application, the Planning Board shall so inform the Zoning Enforcement Officer and he shall deny or cause to be denied a building permit to the applicant. The Planning Board shall also notify the applicant, in writing, of its decision and its reasons for disapproval. A copy of the appropriate minutes may suffice for this notice.

300-7-9. Special Permits

A. Purpose

1. The purpose of this section is to set forth additional requirements which shall apply to certain land uses and activities which, due to their characteristics or the special characteristics of the area in which they are to be located, require special consideration so that they may be properly sited and planned with respect to the objectives of this Chapter and their effect on the surrounding properties and community character. These requirements are intended to promote the public health, general safety, and neighborhood character of the immediate neighborhood and the Town as a whole.

B. Applicability

1. This section is applicable to specially permitted uses, which are listed in the Master Use Table in §300-4-3 of this Chapter.
2. Uses permitted by right shall not require Zoning Board of Appeals, hereafter “Zoning Board,” approval, provided they meet all applicable requirements set forth in this Chapter and are granted Site Plan Review approval by the Planning Board.
3. All applications must comply with the following standards. Additional supplemental regulations for certain uses can be found in Article 300-4 of this Chapter, except wherein the Town Board has retained permitting authority under Local Law for such application.

C. Procedure and Approval

1. An application for a special use permit shall be filed with the Planning and Zoning Clerk.
2. Site plan approval is a required step in the consideration and approval of all special use permits. Site Plan Review can be carried out alongside special use permit procedures.
3. The Zoning Board shall have the authority to impose reasonable conditions and restrictions as are directly related to or incidental to the proposed special use permit.
4. The Zoning Board shall conduct a public hearing within 62 days of the date an application is received on any matter referred to it under this section.
 - a. Notice of a public hearing shall be provided at least 5 days prior to the date thereof in accordance with New York State Law. Such notice shall also be sent to the applicant. Such notice shall also be sufficient to identify the property involved and the nature of the proposed action.

5. The Zoning Board may, when reasonable, waive any requirements for the approval, approval with modifications, or disapproval of special use permits submitted for approval. Any such waiver, which shall be subject to appropriate conditions set forth in the Pomfret Municipal Code adopted pursuant to this section, may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety or general welfare of the Town.
6. The Zoning Board shall render its decision within 62 days after the public hearing. The time within which the authorized board must render its decision may be extended by mutual consent between the applicant and the Town Board.
7. A majority vote of the members of the Zoning Board shall be necessary to decide in favor of the applicant for any special use permit.
8. The decision of the Zoning Board shall be filed in the office of the Town Clerk within 5 business days after such decision is rendered, and a copy thereof shall be mailed to the applicant.

D. General Findings and Areas of Concern

1. The Zoning Board shall not issue a special use permit unless it makes a recorded finding that the proposed use will satisfy the standards set forth herein. In order to reach positive findings in support of the special use permit, the Zoning Board may require conditions of, and/or modifications to, the project. Such conditions must relate to the impact of the project.
2. If the Zoning Board does not make a positive finding in support of the special use permit, it shall deny the special use permit. In issuance of such a denial, the record of the Zoning Board must address the areas of concern outlined below and include the facts and reasons upon which the denial was based:
 - a. There shall be an adequate number of off-street parking spaces provided for the anticipated use and the layout of spaces and ingress/egress of vehicle access points shall be conducive to safe operation for motorists without compromising the safety of pedestrians and bicyclists.
 - b. The access facilities are adequate for the estimated traffic from public streets or highways to ensure the public safety and to avoid traffic congestion;
 - c. The proposed use shall be compatible with the character of the district and neighborhood, the purposes set forth in this Chapter, and the goals of the Fredonia-Pomfret Comprehensive Plan;
 - d. The site shall sufficiently protect scenic views and/or buffers from open space, wherever applicable.
 - e. The lot area is of sufficient size and appropriateness for the proposed use;
 - f. The proposed use will not prevent the orderly and reasonable use of adjacent properties;
 - g. The site's location within the community is suitable for the proposed use;
 - h. The proposed use will comply with all other regulations applicable to such use as listed in Article 4 of this Chapter.

E. Expiration

1. A special use permit shall be deemed to authorize only the particular special use specified therein.
2. A special use permit will expire if the applicant fails to obtain a building permit or fails to comply with the conditions of the special use permit (unless other provisions are set forth by the Zoning Board in connection with its approval) 12 months after approval.
3. A special use permit will expire if the special use shall cease for any reason for more than 12 consecutive months.

F. Revocation

1. In any instance where the conditions of a special use permit have not been or are not being complied with, the Zoning Enforcement Officer shall immediately issue a stop order to the applicant, which shall list the violations. If the applicant shall not have made substantial effort to comply with the stop order within 10 calendar days, the special use permit shall be revoked.

Article 8

Definitions

When used in this Chapter, unless otherwise expressly stated, the following words and phrases shall have the meanings hereinafter set forth.

ACCESSORY

Buildings, structures or uses that on the same lot as the principal permitted use. When applied, the term refers to buildings, structures and uses that:

- A. Is customarily incidental and subordinate to and serves a principal building or use;
- B. Is subordinate in area, extent, or purpose to the principal building or use served;
- C. Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use; and
- D. Is located on the same parcel as the principal building or use.

ACTION

Any project or physical activity, such as construction process to achieve compliance or other activity that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that requires a permit or approval from any board, commission, or official of the Town of Pomfret.

AGRICULTURAL CROP PRODUCTION

Land used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of \$10,000 or more. Land used in agricultural production shall not include land or portions thereof used for processing or retail merchandising of such crops, livestock or livestock products. Land used in agricultural production shall also include:

- A. Rented land which otherwise satisfies the requirements for eligibility for an agricultural assessment.
- B. Land used by a not-for-profit institution for the purposes of agricultural research that is intended to improve the quality or quantity of crops, livestock or livestock products. Such land shall qualify for an agricultural assessment upon application made pursuant to §305 of Article 25-AA in New York's Agriculture & Markets Law.
- C. Land used as a single operation for the production for sale of crops, livestock or livestock products, exclusive of woodland products, which does not independently satisfy the gross sales value requirement, where such land was used in such production for the preceding two years and currently is being so used under a written rental arrangement of five or more years in conjunction with land which is eligible for an agricultural assessment.

AGRICULTURAL PROCESSING, LAND USED IN

Land used on-site or on-farm for the processing or retail merchandising of crops, livestock or livestock products.

AGRICULTURAL USE STRUCTURE

A structure within which crops, livestock or livestock products are produced and/or stored, provided that the sales of such crops, livestock or livestock products meet the gross sales requirements under the definition of "Agricultural Production, Land Used In." Agricultural use structures shall not include truck or shipping containers.

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 or position to another, but not including normal maintenance or minor repairs or improvements.

ANIMAL CARE ESTABLISHMENT

Any facility maintained for the treatment, care, grooming, or boarding of domestic animals. This includes kennels, animal hospitals, animal shelters and other similar uses which are further defined herein.

ANIMAL HOSPITAL OR VETERINARY CARE

Any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal disease and injury wherein the animals are limited to dogs, cats, or other comparable household pets and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal.

ANIMAL SHELTER

A facility used to house or contain animals, which is owned, operated or maintained by an incorporated humane society, animal welfare society or society for the prevention of cruelty to animals.

ANTENNA

A system of electrical conductors that transmit or receive radio frequency signals. Such signals shall include but not be limited to radio, television, cellular, paging, personal communication service (PSC) and microwave communications

ANTENNA, CO-LOCATED

Telecommunications facilities which utilize existing towers, buildings or other structures for placement of antennas and do not require construction of a new tower.

APPEAL

A request by an interested party for reconsideration of a decision.

APPLICANT

A person filing an application in accordance with this Zoning Chapter who is:

- A. The owner or lessee of property;

- B. A party who has contracted to purchase property contingent upon that party's ability to acquire the necessary approvals required for that action in accordance with this Zoning Chapter, and who presents written authorization from the property owner to file an application with the Town; or
- C. The agent or either of the above who presents written authorization from the property owner to file an application with the Town.

APPLICATION

The formal request by an applicant or developer, as those terms are defined herein, for any permit or approval by the Town Board, Planning Board, Zoning Board of Appeals or Zoning Officer, along with the preparation of any and all plans submitted in connection therewith, including, but not limited to, any required review under the New York State Environmental Quality Review Act (SEQRA).

BAR OR DRINKING ESTABLISHMENT

Any place primarily devoted to the serving of alcoholic beverages and in which the service of food is incidental to the consumption of such beverages.

BASEMENT

A story partly underground and having more than 1/2 of its height below the level of the adjoining ground.

BED AND BREAKFAST

A single-family dwelling occupied and used by the owner of such dwelling as his principal residence and within such dwelling unit there are accessory guest rooms provided for compensation wherein a morning meal to not more than 10 lodgers is provided and 5 bedrooms are provided for such lodgers.

BLOCK

The length of a street between two intersections.

BOUNDARY LINE FENCE

A barrier of wood, metal, transite, fabricated materials or natural vegetative growth maintained on or within two feet of a property boundary line.

BREWERY, CIDERY, DISTILLERY, MEADERY, WINERY

Any land use which incorporates the processing, distillation, brewing and fermentation activity as well as any on-farm buildings and equipment which are needed to produce, store, distill, brew and/or ferment grain, hops, grapes or other fruits produced on the site. In addition, any on-site marketing of distilled and brewed products, cider and wine, when the distilled and brewed products, cider and wine is composed predominantly of on-farm produced grain, hops, grapes or other fruits, is part of the farm operation.

BUFFER

A strip of land, fence or border of trees between one land use and another which may or may not have trees and shrubs planted for screening purposes, designed to set apart one use area from another. An appropriate buffer may vary depending on uses, districts, size, etc. and shall be determined by the permitting board.

BUILDING

A structure with a roof supported by columns, walls, trees or inflated air, or a roof supported by any other means and having a horizontal area of more than 50 feet that is intended for the shelter, housing or enclosure of persons, animals or property.

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV)

A solar energy system that consists of integrating photovoltaic modules into the building structure. Technologies include PV shingles or tiles, PV laminates and PV glass. Examples of placement include vertical facades, semi-transparent skylights, awnings, fixed awnings and roofs.

BUILDING, ACCESSORY

A subordinate building, or portion of the main building on a lot, the use of which is customarily incidental to that of the main or principal building. This shall include but is not limited to garages and sheds.

BUILDING, DETACHED

A building surrounded by open space on the same lot as the principal building.

BUILDING, PRINCIPAL

A building in which is conducted the principal or primary use of the lot on which it is situated.

BUILDING HEIGHT

The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof.

BUILDING LINE

A line parallel to the lot line or to the major portion thereof, transecting that point in the building face which is closest to such lot line. The building face includes sun parlors, breezeways and porches, whether enclosed or unenclosed, but does not include steps, patios and terraces. Where the overhang of a roof is greater than two feet measured from the face of the building, the "building line" shall be established as the eave of the building. The "building line" of any accessory building shall be the eave line.

BULK

The size and scale of buildings and non-building uses and the physical relationship of their size and scale in relation to the lot on which they are located. Bulk requirements include building height, building footprint, lot coverage, and setbacks.

CAMOUFLAGING

The construction of facilities to house or support a telecommunications tower so that the tower blends readily with the landscape, neighborhood and adjacent architectural features. Examples of camouflaging include, but are not limited to, silos, barns, windmills, and simulated trees.

CANNABIS

All parts of the plant of the genus Cannabis, whether growing or not; the seed thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. It does not include hemp, cannabinoid hemp or hemp extract as defined by this section or any drug products approved by the federal Food and Drug Administration.

CANNABIS CONTROL BOARD

The New York State Cannabis Control Board.

CANNABIS CULTIVATION

Growing, cloning, harvesting, drying, curing, grading, and trimming of cannabis plants for sale to certain other categories of cannabis-license and cannabis-permit holders.

CANNABIS ON-SITE CONSUMPTION

The consumption of cannabis in an area licensed as provided for in this Chapter.

CANNABIS PRODUCT

Cannabis, concentrated cannabis, and cannabis-infused products for use by a cannabis consumer.

CANNABIS RETAIL SALE

To solicit or receive an order for, to keep or expose for sale, and to keep with intent to sell, made by any licensed person, whether principal, proprietor, agent, or employee, of any cannabis, cannabis product, cannabinoid hemp or hemp extract product to a cannabis consumer for any purpose other than resale.

CLUSTER DEVELOPMENT

A development of five acres or more where a developer may elect, after board approval, to cluster or group his development in return for the permanent creation of common areas. Overall, the density of development remains approximately the same as required by the district area requirements.

CODE ENFORCEMENT OFFICIAL

The officer or other designated authority charged with the administration and enforcement of this code, or a duly authorized representative. The Town of Pomfret has both a Code Enforcement Officer and a Zoning Enforcement Officer.

COMMERCIAL SHOOTING RANGE

The parcel(s) of land used for discharging of firearms with the intent to hit any object (moving or stationary) other than live game, by any person who pays a fee (e.g., membership fees, shooting fee, etc.) to use said facilities. Commercial shooting ranges include but are not limited to nonprofit clubs (skeet club, etc.); and profit motivated business. For the purpose of this chapter a shooting range shall be considered to be a trap/skeet or other type of range utilizing shot guns as well as an indoor (fully enclosed) range utilizing rifles or pistols not classified as shootings

COMPATIBLE

Having a complimentary and congruent arrangement of elements in the design and/or appearance between two or more attributes of a structure; two or more structures; two or more attributes of a neighborhood; or having a complimentary and congruent arrangement of elements in the use or function between two or more attributes of a neighborhood or area.

CORNER LOT

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

DAYCARE, CHILD

Child day care means care for a child on a regular basis provided away from the child's residence for less than 24 hours per day by someone other than the parent, stepparent, guardian or relative within the third degree of consanguinity of the parents or step-parents of such child. A relative within the third degree of consanguinity of the parent or step-parent includes: the grandparents of the child; the great-grandparents of the child; the great-great-grandparents of the child; the aunts and uncles of the child, including the spouses

of the aunts and uncles; the great-aunts and great-uncles of the child, including the spouses of the great-aunts and great-uncles; the siblings of the child; and the first cousins of the child, including the spouses of the first cousins.

DAYCARE, ADULT

Health care services and activities provided to a group of registrants with functional impairments to maintain their health status and enable them to remain in the community.

DENSITY

A unit of measurement; “density” means the number of dwelling units per acre of land.

DEVELOPER

Any person, firm, partnership, association, corporation, company, limited liability or entity or organization of any kind, whether or not an applicant as defined herein-above, that constructs or proposes to construct one or more highways, drainage facilities, utilities or parks within or in conjunction with a development and to convey or dedicate same to the Town.

DISTRICT OR ZONE

A portion of the territory of the municipality within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Chapter.

DOG CONTROL OFFICER

The person employed as the official enforcement officer of this section and any other article pertaining to dogs and their control in the Town of Pomfret, and any other rules or regulations promulgated pursuant thereto.

DRIVEWAY

That portion of a lot extending from a permitted curb cut which is used for the purpose of ingress to or egress from the property and the parking of vehicles thereon.

DRIVE-THROUGH ESTABLISHMENT

A business designed to either wholly or partially provide services or products to customers while in automobiles parked or stopped on the premises. Examples include but are not limited to fast food restaurants and automated teller machines (ATM).

DWELLING

A building or part of a building erected upon a permanent foundation constructed for and intended for occupancy as a residence by one or more families; the term shall not be deemed to include automobile court, hotel or motel, boarding house, tourist home, tent, or recreational vehicle. “Dwelling” may include but is not limited to the following types.

DWELLING, MULTI-UNIT

A building of three or more dwelling units with common walls and floors designed for occupancy by three or more units that are independent of each other; an apartment, town house, row house, condominium or mixed-use building. Multi-unit dwellings may or may not include outer entrances for each dwelling unit.

DWELLING, SINGLE-UNIT

A building designed exclusively as a single-unit household and including provisions for cooking, sleeping, and sanitary facilities. For the purposes of this ordinance, single-unit dwelling may include attached single-unit dwellings and detached single-unit dwellings.

DWELLING, TWO-UNIT

A building of two dwelling units with common walls and/or floors. Two-unit dwellings are designed for occupancy of two units living independently of each other and may include outer entrances to each dwelling unit.

DWELLING UNIT

That part of a dwelling designed for use by one family only and containing one or more rooms and facilities for living, including cooking, sleeping, storage of possessions and sanitary needs.

ENVIRONMENTAL ASSESSMENT FORM (EAF)

Environmental assessment form used in the implementation of the SEQRA as that term as defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations

ENVIRONMENTAL IMPACT STATEMENT (EIS)

A written document, prepared in accordance with State Environmental Quality Review Act (SEQR) regulations, which documents the potential environmental impacts of proposed actions and alternative actions.

EXTERIOR PROPERTY AREAS

The open space on the premises and on adjoining property under the control of the owner or operator of such premises.

FACADE

The face of a building, especially the principal front that faces a street or an open space including any face that is visible from the street.

FALL DOWN ZONE

The radius around a tower within which all portions of the tower and antennas would fall in the event of a structural failure of the tower.

FARMERS MARKET

The offering of fresh agricultural products directly to the consumer at an market. This market may also include art, crafts, and other locally produced goods and products.

FENCE

Anything intended to separate property lines, or anything intended for privacy or safety whether made of metal, wood, appropriate living materials, or other accepted materials as determined by the Zoning Board.

FUEL OR GASOLINE STATION

All lots from which motor fuel is sold and which may include a convenience store and/or motor vehicle services as an accessory use. If such accessory uses are combined with the sale of fuel, the use shall be treated as if it were solely the sale of fuel. Fuel shall include but not be limited to gasoline, propane and kerosene.

FRONTAGE

The extent of a building or a lot along one or more public streets as defined herein.

FROST-FREE FOUNDATION

A continuous masonry substructure consisting of stone, poured concrete or concrete block, eight inches thick, placed on a concrete footer, such footer being equal to the thickness of the wall and depth by twice the width of the wall in width, a minimum of 36 inches below grade or below frost line, whichever is deeper, as designed and stamped by a New York State licensed architect or engineer.

FOOT CANDLE

A measure of illumination on a surface that is everywhere one foot from a uniform point source of light of one candle and equal to one lumen per square foot.

GARAGE, PRIVATE

A secondary building used in conjunction with a primary building which primarily provides for the storage of motor vehicles and in which no occupation, business or services for profit are carried on.

GARAGE, PUBLIC

Any garage other than a private garage, operated for gain, available on a rental basis for the storage of motor vehicles, including the supply of gasoline and oil

GAS COMPRESSOR

Any mechanical equipment utilized to cause the movement of natural gas through a transmission line system.

GRAVEL PIT, SMALL

Any gravel pit involving the extraction of less than 500 yards annually.

GUYED TOWER

A communications tower consisting of a single pole supported by wires and ground anchors onto which telecommunications antennae and/or similar satellite antennae are affixed.

HAND LAUNDRIES/PERSONAL SERVICE LAUNDRY

A facility where patrons wash, dry or clean clothing or other fabrics in machines operated by the patron. These facilities can provide washing, drying and/or ironing machines for hire to be used by customers on the premises.

HOME OCCUPATION

A use that:

- A. Is clearly incidental and secondary to the use of such dwelling for residential purposes;
- B. Is a single profession or hobby carried on within a dwelling by a member of the household residing in the dwelling unit; and
- C. Can be conducted without substantial change in the appearance, character or traffic generation of the residence.

HORTICULTURE

Land use that specifically is focused on the growth and production of horticultural specialties such as nursery stock, ornamental shrubs, ornamental trees and flowers.

HOTELS AND INNS

A building having more than two stories with rooms intended, designed, used, rented or hired out to be occupied for sleeping purposes, along with the provision of food, meals and beverages to transient guests and/or the general public.

IMPERVIOUS SURFACE

Material which does not permit the natural absorption and permeation of rain or other surface water.

JUNK VEHICLE

Any motor vehicle, including, but not limited to, automobile, bus, trailer, truck, motor home, motorcycle, minibike, ATV, boat or snowmobile or other device originally intended for travel on the public highways, which meets any of the following conditions:

- A. Its registration and/or inspection have expired.
- B. It is abandoned, wrecked, discarded or dismantled, and stored outdoors.

KENNEL

Any kennel where pet animals owned by another person are temporarily boarded for pay or remuneration of any sort; provided, however, this definition shall not apply to animal hospitals operated by licensed veterinarians. Kennel shall be interpreted to be any lot or premises housing or harboring more than four dogs, more than four months of age. A dog will be presumed to be more than four months of age unless the owner can prove otherwise.

LANDSCAPING

The use of natural plant materials including, but not limited to, ground covers, shrubs, and trees. Landscaping also involves the placement, preservation and maintenance of said plant materials in conjunction with associated improvements such as fences, walls, lighting, earth mounding and structures (principal or accessory).

LIVESTOCK

New York State Agriculture & Markets defines livestock and livestock products to include, but not be limited to, cattle; sheep; hogs; goats; horses; poultry; ratites, such as ostriches, emus, rheas, and kiwis; farmed deer; farmed buffalo; fur bearing animals; wool bearing animals, such as alpacas and llamas, milk; eggs and furs.

LOADING AREA

An off-street space exclusive of passageways, driveways, ramps, columns and other areas that is used for the temporary parking of a commercial vehicle while loading or unloading deliveries, merchandise or materials.

LOT

A designated parcel, tract or area of land created by conveyance, subdivision or eminent domain and which has a unique Tax Map number.

LOT AREA

The total computed area contained within the property lines, excluding any part lying within the boundaries of a public street or proposed public street. Also referred to as "lot size."

LOT COVERAGE

That percentage of the lot covered by all of the buildings, structures and impervious materials.

LOT LINES

The property lines bounding the lot, as verified by certified survey.

LOT WIDTH

The measurement at the point at which the front setback line intersects the side lines.

MANUFACTURING, PROCESSING, ASSEMBLY

Includes the assembling, processing, manufacturing, compounding, fabricating and treatment of products or materials when such activities are the predominant activity on the lot.

MINING OPERATION

A lot or land or part thereof used for the purpose of extracting stone, sand, gravel, topsoil or other mined materials for sale, as an industrial operation, and exclusive of the process of grading a lot preparatory to the construction of a building for which application for building permit has been made.

MIXED USE BUILDING

A building within which residential as well as nonresidential uses occur. All mixed-use buildings shall have all residential uses on a second and/or third story of the building.

MOBILE AND MANUFACTURED 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 or more 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. The term shall include any structure that meets all of the requirements of this subdivision except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under Title 42 of the United States code; and except that such term shall not include any self-propelled recreational vehicle.

MOBILE AND MANUFACTURED HOME PARK

A mobile and manufactured home park means a contiguous parcel of privately-owned land which is used for the accommodation of multiple mobile or manufactured homes occupied for year-round living.

MOTOR VEHICLE SERVICE STATION

Any area of land, including structures therein, which may include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means, body and fender work or the dismantling or replacing of engines.

MOTOR VEHICLE SALES FACILITY

The use of any building or portion thereof, or other premises or portion thereof, for the display, sale, rental, or lease of new motor vehicles, or used motor vehicles as an ancillary use of a zoning lot, and any warranty repair work and other repair service conducted as an accessory use.

NET METERING

A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage.

NONCONFORMING BUILDING OR STRUCTURE

A building or structure that does not conform to the regulations of the district in which it is located upon the effective date of this Chapter.

NONCONFORMING USE

An established use of a building or structure or land existing at the effective date of this Chapter or any amendment thereto which does not conform to the minimum width, depth and area dimensions specified for the district wherein such lot is situated.

NONRESIDENTIAL USE

All uses of land and buildings except one-family dwellings, two-family dwellings and multifamily dwellings.

NUISANCE

A violation of this chapter caused by an offensive, annoying, unpleasant or obnoxious use of characteristics of said use which produces effects of such a nature or degree that they are detrimental to the health, safety, general welfare, property values, etc., thus resulting in harm or injury to adjacent or nearby properties. Common examples include excessive odors, noise, smoke, vibration, light, runoff, traffic, development density, electronic interference, etc.

OFFICE

A place which is used to conduct a business or profession and is occupied by a physician, surgeon, dentist, lawyer or person providing similar services or in whose office the functions of consulting, record-keeping and clerical work are performed.

OPEN SPACE

An area or areas of a lot, including required yards which are:

- A. Open and unobstructed from ground to sky, except by facilities specifically designed, arranged and intended for use in conjunction with passive or active outdoor or relaxation;
- B. Landscaped, maintained or otherwise treated to create a setting appropriate to recreation or relaxation; and/or
- C. Accessible and usable by the general public, business patrons or residents of all dwellings or stores it is intended or required to serve.

OUTDOOR DISPLAY AND SALES

Includes uses which sell, rent or display merchandise or equipment predominantly outside of an enclosed building. Such uses do not include storage of inoperative vehicles or equipment, or other materials typically associated with a junkyard or salvage yard.

OUTDOOR STORAGE

The location of any goods, wares, merchandise, commodities, junk, debris, or any other item outside of a completely enclosed building for a continuous period longer than 24 hours.

OUTPARCEL

A parcel of land, generally located on the perimeter of a larger parcel of commercial land, that is subordinate to the larger parcel.

PARKING LOT

Any privately owned lot or building which is available to the general public for the temporary parking or storage of motor vehicles.

PARKING SPACE

An off-street space other than a one-lane driveway available for the parking of one motor vehicle and having an area of not less than 200 square feet and a width of not less than nine feet exclusive of passageways and driveways appurtenant thereto, and giving access thereto and having direct access to a street or an alley.

PHOTOVOLTAIC

A semiconductor based device that converts light directly into electricity.

PLANNED DEVELOPMENT DISTRICTS

Any privately owned lot or building which is available to the general public for the temporary parking or storage of motor vehicles.

POND, MANMADE

A manmade pond to be used as a water source for agricultural and other business-related pursuits.

RECREATIONAL VEHICLE

A vehicle which is:

- A. Built on a single chassis;
- B. 400 square feet or less when measured at the largest horizontal projections;
- C. Designed to be self-propelled or tow-able by a light-duty vehicle; and

Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

RESIDENTIAL USE

Includes one-family dwellings, two-family dwellings and multifamily dwellings.

RESTAURANT

Includes all facilities from which prepared food and alcoholic beverages are offered for sale to the public, regardless of what other use may be occurring on the lot.

RETAIL STORES AND SHOPS

An establishment for the sale of goods, or products individually or in small quantities directly to the consumer. Retail store or service shall not be interpreted to include the following: drive-up service, gasoline station, motor vehicle repair service, new or used car sales and service, and trailer or mobile home sales and service.

RIGHT-OF-WAY

A strip of land, either public or private, occupied or intended to be occupied by a street, sidewalk, trail, railroad, electrical transmission line, oil or gas pipeline, water main, sanitary or storm sewer or other similar use.

ROADSIDE STAND

A temporary structure or vehicle located on a seasonal basis within a required front or side yard abutting a street for the purpose of displaying or selling agricultural products.

SCREENING

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

SELF-SERVICE STORAGE FACILITY

A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations or businesses for self-storage service of personal property.

SERVICE SHOP OR LAND USE

An establishment providing specialized services to consumers. This shall include, but not be limited to, drycleaners, hair stylists and salons, locksmiths, etc.

SEXUALLY-ORIENTED BUSINESS, ADULT USE

Any business that sells or disseminates explicit sexual material, and at which access to the public display of explicit sexual material is restricted by law to persons 18 years of age or older. This includes, but is not limited to, adult arcades, adult book/video/media stores, exotic cabarets, adult entertainment facilities, adult motels, adult motion-picture theaters, adult theaters, escort agencies, nude model studios and sexual encounter centers.

SIGN

Any object, device, display or structure, or part thereof, situated outdoors that is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including but not limited to words, letters, figures, designs, symbols, fixtures, colors, illumination or project images. "Signs" shall also include all sign structures. A sign for the purposes of this Chapter does not include the following:

- A. A flag or emblem of any nation, organization of nations, state or city, or any fraternal, religious or civic organization;
- B. Merchandise, pictures or models of products or services incorporated in a window display;
- C. Works of art which in no way identify a commercial message;
- D. Scoreboards located on athletic fields;
- E. Official notices issued by any court or public office or officer in the performance of a public or official duty; and
- F. Traffic control signs.

SIGN, A-FRAME

A freestanding sign not exceeding 3 feet in height with an area no greater than 2 feet by 3 feet, of "A-frame" design and which is not illuminated.

SIGN, AWNING

A sign which is displayed upon a sheet of canvas or other material used to protect from sunlight or rain,

which is attached to the face of a building. Also a sign which is displayed upon a permanent roof-like shelter extending from part of a building face over an entryway.

SIGN, BANNER

A temporary sign composed of lightweight canvas-like material which can be attached to a structure or suspended by attachment at each end.

SIGN, BILLBOARD

A structure for the permanent display of off-premises advertising. Off-premises advertising is any commercial message referring or relating to an enterprise or business that is not conducted on the premises where the sign is located. Billboards are prohibited in the Town of Pomfret.

SIGN, DIGITAL

A sign that has or appears to contain movement or that appears to change, caused by a method other than physically removing and replacing the sign or its components whether the real or apparent movement or change is in the display, the sign structure itself, or any other part of the sign. A digital sign often incorporates a technology allowing the sign face to change the image without the necessity of physically or mechanically replacing the sign face or its components. A digital sign may include a rotating, revolving, moving, flashing, blinking, or animated display, and any display that incorporates rotating panels, LED lights manipulated through digital input, electronic message centers, or other similar methods or technologies that permit a sign face to present different images or displays.

SIGN, DIRECTIONAL

Any sign that is designed and erected for the purpose of traffic or pedestrian direction or control. Such a sign shall not carry a commercial message.

SIGN, MONUMENT

A sign that is supported by a foundation of one or more columns, uprights or braces not attached to or forming part of a building or structure. The sign shall be no higher than 5 feet above grade, otherwise such sign shall be classified as a pole sign.

SIGN, NON-COMMERCIAL

A sign which in no way identifies, advertises, or directs attention to a business or is intended to induce a purchase of a good, property, or service, or portrays or symbolizes a good, property, or service, especially, but, without limitation, a brand or trade name, an identifiable container shape or a trademark, within 1,000 feet from a point of commercial solicitation, sale, or distribution of such good, property, or service.

SIGN, OFF-PREMISES

A sign that directs attention to a business, commodity, service or entertainment conducted, sold, or offered at a location other than where such sign is located.

SIGN, POLE

A sign that is affixed to, attached to, or erected on a freestanding pole or other support that the bottom edge of the sign face is greater than 4 feet above grade.

SIGN, POST-AND-PANEL

A freestanding sign that hangs from brackets which are permanently affixed to one or two posts that are separate from a building or structure. The sign shall be no higher than 4 feet above grade, otherwise such sign shall be classified as a pole sign.

SIGN, PROJECTING

A sign attached to or supported by a building or structure in such a manner that it extends more than 1 foot from the building's facade.

SIGN, TEMPORARY

A sign which is not intended to be used for a period of time to exceed 45 days, nor is attached to a building, to a structure, or into the ground in a permanent manner. Such signs usually being constructed of poster board, cardboard, masonite, plywood or plastic material and mounted to wood, metal, wire or rope frames or supports.

SIGN, WALL

A sign fastened or applied to the wall of a building or structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign and which does not project more than 12 inches from such building or structure.

SIGN, WINDOW

A sign which is applied or attached to the exterior or interior of a window or is installed inside of a window within 12 inches of the window through which it can be seen.

SOLAR, COLLECTED

Solar installations owned collectively through subdivision homeowner associations, college student groups, "adopt-a-solar panel" programs, similar arrangements or commercial entities.

SOLAR SYSTEM, GROUND-MOUNTED

A solar photovoltaic system mounted on a structure, pole or series of poles constructed specifically to support the photovoltaic system and not attached to any other structure.

SOLAR SYSTEM, ROOF-MOUNTED

A solar photovoltaic system attached to any part or type of roof on a building or structure and that is either the principal structure or an accessory structure on a recorded lot. This system also includes any solar-based architectural elements.

SOLAR, LARGE-SCALE

Solar energy systems located on land in the Town of Pomfret used primarily to convert solar energy into electricity for off-site consumption or sale, and/or systems that have the capacity to produce more than 25 kw per hour of energy.

SOLAR EASEMENT

An easement recorded pursuant to New York Real Property Law 335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

SOLAR ENERGY EQUIPMENT

Energy storage devices, materials, hardware, or electrical equipment and conduit associated with the production of electrical energy.

SOLAR ENERGY PRODUCTION FACILITY

Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of wholesale or retail sales of electricity.

SOLAR ENERGY SYSTEM

Includes a combination of both solar panels and solar energy equipment.

SOLAR PANEL

A device capable of collecting and converting solar energy into electrical energy.

SOLAR STORAGE BATTERY

A device that stores energy from the sun and makes it available in an electrical form.

SOLAR THERMAL SYSTEMS

Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

SOUND PRESSURE LEVEL

The level which is equaled or exceeded a stated percentage of time. An Lw-50 dBA indicates that in any hour of the day 50 dBA can be equaled or exceeded only 10% of the time, or for six minutes. The measurement of the sound pressure level can be done according to the International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400-11) or other accepted procedures.

STORAGE SHED

An accessory structure whose purpose is the outdoor storage of materials and goods. Use of truck bodies as storage sheds shall not be permitted.

STREET

A public or private thoroughfare which affords the principal means of access to abutting property, including avenue, way, drive, boulevard, highway, road and any other thoroughfare except an alley.

STREET GRADE

The established grade of the street upon which the lot fronts, the grade being the grade as established by the Town.

STREET LINE

The dividing line between the street and the lot.

STRUCTURE

A combination of materials constructed, the use of which requires location on the ground or attachment to something having location on the ground and is not a building as herein-above defined. This term includes an improved impervious parking surface.

TELECOMMUNICATION FACILITIES

Towers and/or antennas and accessory structures together used in connection with the provision of cellular telephone service, personal communication services (PCS), paging services, radio and/or television broadcast services, microwave transmission and/or similar or like broadcast services.

TRANSPARENCY

The percentage of the facade wall area which includes openings for transparent glass windows and doors. Facade transparency at the first floor/ ground floor level is measured between two (2) feet above grade to ten (10) feet above grade. Facade transparency for upper floors is measured from second finished floor level to the ceiling of the topmost floor. Glass is considered transparent when it has a Visible Light Transmission (VLT) rating at the percentage as specified in the code or higher.

TRASH

Discarded matter or refuse including but not limited to household garbage, discarded household items and clothing, and junk vehicles.

TOWER

A structure designed to support antennas. It includes without limitation freestanding towers, guyed towers, monopoles and similar structures which do, or do not, employ camouflage technology.

USE

The specific purpose for which land, building or structure is designed, intended, arranged, used or maintained.

USE, CHANGE OF

Any change in the type or nature of occupancy of a building or land, except the following:

- A. A change in the volume of use without any physical extension of sales and/or service area;
- B. An expansion or substitution of accessory or incidental uses in connection with the established principal use, except that in no case shall such an accessory or incidental use dominant in area or purpose the principal lawful use;
- C. A change in ownership; or
- D. A change to a generically similar use.

USE, PERMITTED

Indicates that a use is allowed by-right without Planning Board approval, provided that such use, activity or structure is in conformance with the regulations of this Chapter.

USE, SPECIAL

A use which, because of its unique characteristics, requires special consideration in each case by the Zoning Board. The Zoning Board must grant approval for a special use permit before a zoning permit can be issued.

UTILITIES

All water, sanitary sewer, gas, electric, internet, telephone, cable television facilities and any easements through or over which said facilities may be constructed or installed in or in connection with a development.

VARIANCE

The Zoning Board of Appeals' authorized departure to a minor degree from the text of this Chapter in direct regard to a hardship peculiar to an individual lot in accordance with the procedures set forth in this Chapter and by the Laws of the State of New York.

VARIANCE, AREA

An authorized departure from the size or shape of lot, yard, building height, building coverage, parking or other regulations governing area requirements.

VARIANCE, USE

An authorized departure from the requirements for the use of land for a purpose that is otherwise not allowed or prohibited by this Chapter.

WIND ENERGY CONVERSION SYSTEM (WECS)

A machine that converts the kinetic energy in the wind into a usable form (commonly known as a “wind turbine” or “windmill”)

WIND ENERGY CONVERSION SYSTEM (WECS), SMALL

A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 101 kW and which is intended to primarily reduce consumption of utility power at that location.

WIND ENERGY FACILITY

Any wind energy conversion system, small wind energy conversion system or wind measurement tower, including all related infrastructure, electrical lines and substations, access roads and accessory structures.

WIND MEASUREMENT TOWER

A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction

WIND OVERLAY DISTRICT/ZONE

A district or zone which encompasses one or more underlying zones and that establishes requirements for wind energy facilities.

WOOD PROCESSING

Commercial facility containing sawing and planing equipment utilized for the preparation of dimensional lumber used for construction. No on-premises sales to the general public takes place.

YARD, FRONT

That area of the lot extending across the entire front of the lot, bounded by the street line and the front building line between the two side lot lines.

YARD, REAR

That area of the lot extending across the entire rear of the lot, bounded by the rear lot line and the rear building line and between the two side lot lines.

YARD, SIDE

That area of the lot between the side building line and its related side lot line and between the front yard and rear yard.