

## **ARTICLE I GENERAL PROVISIONS**

### Section 100 Short Title

This Law shall be known and cited as the Zoning Law of the Town of Ira.

### Section 101 Purpose

Such is made to promote the health, safety, and general welfare of the community, and to lessen congestion in the streets, to secure safety from fire, flood, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid concentration of population, to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements, under and pursuant to Article 16 of the Town Law of the State of New York, the size of buildings and other structures, the percentage of a lot that may be occupied, the size of yards, the density of populations, and the use of buildings, structures and land for trade, industry, residence or other purposes are hereby restricted and regulated as hereinafter provided.

### Section 102 Procedures

The procedures for complying with the terms of this Law are enumerated in Article IX, Administration.

Generally, the procedures require that all construction, subdivision of land, and use of buildings in the Town shall not proceed until the issuance of a permit by the Code Enforcement Officer in accordance with the provisions of Article IX.

Nor shall any land be used or building occupied until issuance of a Certificate of Occupancy indicating compliance with the terms of a duly issued permit. Such Certificate of Occupancy shall be issued by the Code Enforcement Officer in accordance with the provisions of Article IX herein. No permit or Certificate of Occupancy shall be issued for any undertaking not in compliance with the provisions of this or any other, applicable local, county, state, or federal law.

## **ARTICLE II ESTABLISHMENT OF DISTRICTS**

### Section 200 Districts

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

Agricultural / Residential District (AR)

Planned Development District (PDD)

1. Residential (R-PDD)
2. Commercial (C-PDD)

3. Industrial (I-PDD)

Section 201 Zoning Map

A. Said districts are bounded as shown on a map entitled Town of Ira Zoning Map certified by the Town Clerk, which accompanies and which with all explanatory matter thereon, is hereby made a part of this Law.

B. Changes and Amendments:

1. Any changes in district boundaries or other matter shown on the Zoning Map shall be promptly made on the map, with a signed statement substantially as follows:

on ....., by action of the Town Board of Ira, the following (change) changes (was) were made in this Zoning Map: (brief description of the nature of the change).

2. This statement shall be signed by the Supervisor and attested by the Town Clerk. The Law making such changes and amendments shall provide for their immediate entry upon the Zoning Map. Amendment to map Local Law # 3 of 2009 appended to map.

C. The following properties situate at Dalton Road are hereby zoned and designated Commercial Planned Development District (C-PDD) under the Town of Ira Zoning Local Law adopted on May 6<sup>th</sup>, 2009, subject to all regulations created and established relative to said District:

<u>Tax Map No.</u>	<u>Property Address</u>	<u>Reputed Owners</u>
40.00-1-19.12	3219 Dalton Rd Cato, NY	Sidney and Paula Townsend

(Amended by Local Law # 3 of 2009)

Section 202 Interpretation of District Boundaries

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

A. Where district boundaries are indicated as approximately following the center line of streets or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way line shall be construed to be such boundaries.

B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.

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

### **ARTICLE III APPLICATION OF DISTRICT REGULATIONS**

#### **Section 300 Conformity Required**

- A. No structure or land shall hereafter be used or occupied, and no structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered, unless in conformity with all of the regulations for the district in which it is located.
- B. No part of a yard, other open space or off-street parking or loading space required about or in connection with any structure for the purpose of complying with this Law shall be included as part of a yard, open space or off-street parking or loading space similarly required for another structure.
- C. No yard, lot or off-street parking space existing at the time of enactment of this Law shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Law shall meet the minimum requirements established by this Law.

#### **Section 301 Regulations to be Minimum and Uniform.**

Within each district, the regulations established by this Law shall be minimum regulations and shall be applied uniformly to each class or kind of structure or land.

### **ARTICLE IV AGRICULTURAL / RESIDENTIAL DISTRICT (AR)**

#### **Section 400 Structure and Uses**

Intent:

This district is intended for rural portions of the Town which are characterized by farms and low density residential uses. Properties within this district rely upon individual on-site systems for provision of essential water supply and septic disposal. Therefore in order to ensure adequate separation of these essential systems and to prevent any undue burden upon the natural environment, the required minimum residential lot size is intended to promote a separation of farms and unrelated residential uses to protect both activities from the potential adverse effects each has upon the other. The overall level of development within this district is encouraged to be maintained at a low intensity so that the cumulative effects of development are able to be absorbed within the existing unimproved conditions and facilities of the area.

- A. Permitted by right or with building permit.

1. Single family dwelling, each dwelling to be on a separate lot and on a permanent foundation, and accessory uses and structures.
2. Farm, with the following restrictions:
  - a. No retail or commercial activity shall take place other than the storage, processing and sale of farm products actually produced on the premises.
  - b. The storage of manure or other extraordinary odor or dust-producing use shall not take place within one hundred (100) feet of the nearest lot line.
  - c. Farms are exempt from maximum height restriction of 50 ft. (Section 401 B.2.e).
3. Ponds:
  - a. Under a million gallons of impoundment, permits are required by the Town of Ira and may require permits from other agencies.
  - b. A million and over gallons of impoundment requires a permit from the Town of Ira and other agencies.
4. Unattached accessory structures including but not limited to non-commercial greenhouses, tool sheds, private garages or swimming pools shall be erected only in accordance with the following restrictions.
  - a. No accessory structure shall be located closer than thirty (30) feet to the side or rear lot lines.
  - b. Every outdoor in-ground or above-ground swimming pool shall comply with New York State Uniform Fire and Building Code, §720-1 and 720-2, RE: Enclosures.
5. One (1) camper or motor home can be set up on a separate lot or as an accessory structure to an existing dwelling, and used for occupancy between May 1 and October 31, whether for gain or not in accordance with Article IV section 400 (C).
6. Van bodies, semi-trailers used for over-the-road purposes, and school buses can be used as storage structures for commercial or farm use only.
7. Junk as defined in this part is not permitted.
  - a. Junk: The outdoor storage or deposit of any of the following shall constitute junk.
  - b. Two (2) or more inoperable unlicensed or unregistered motor vehicles.
  - c. One (1) or more abandoned or inoperable appliances including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions.

- d. One (1) or more abandoned or irreparably damaged pieces of indoor furniture including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs, and chests of drawers.

B. Permitted upon Controlled Site Review (see Article VI):

- 1. Two family dwelling
- 2. Church
- 3. Utility substation
- 4. Public School

C. Permitted Upon Issuance of Special Permit (see Article VII):

Structures and uses not covered in Article IV, Section 400, B: Controlled Site Review that meet the application of standards in Section 701 of Article VII: Special Permit Uses.

(Amended by Local Law # 1 of 2011)

D. Supplementary Regulations (see Article VIII):

- 1. Height, yard, corner lot exceptions
- 2. Off-street parking and loading
- 3. Signs
- 4. Screening and landscaping
- 5. Accessory uses and structures

Section 401 AR Lot and Structure Requirements

A. Residential Structures and Uses:

1. Lot:	One family	Two family	Multi-family
a. area, minimum	80,000 sq.ft	120,000 sq.ft.	150,000 sq.ft.
b. width, minimum	250 ft.	300 ft.	300 ft.
c. coverage, maximum	25 %	25 %	25 %

2. Exceptions of Minimum Lot Sizes and Lot Widths:

The provisions of Section 401 shall not prevent the construction of a single family dwelling, provided the yard requirements are observed, on any lot which was lawful when created and which prior to the effective date of this Local Law was in separate ownership duly recorded by plat or deed.

3. Principal Structure and Accessory Structures:

One family    Two family    Multi-family

a. front yard setback	80 ft.	80 ft.	80 ft.
b. side yard setback	30 ft.	30 ft.	30 ft.
c. rear yard setback, principal structures	30 ft.	30 ft.	50 ft.
d. rear yard setback for accessory structures	30 ft.	30 ft.	30 ft.
e. maximum height (farms are exempt)	50 ft.	50 ft.	50 ft.

4. Minimum Floor Area:

- a. For all single-family dwellings, excluding any additions, the minimum floor area used for living purposes shall be nine hundred ten (910) square feet.
- b. For all two-family and multiple-family dwellings, the minimum floor area used for living purposes in each dwelling unit shall be seven hundred fifty (750) square feet.

5. Manufactured Housing (as defined by the NYS Building Code) in all Ag/Res Districts:

The purpose and intent of this ordinance is to provide maximum compatibility between manufactured homes and site-built homes within general residential environment.

- a. Shall be used only as a dwelling unit.
- b. Shall comply with the criteria for a Residential Designed Manufactured Home. A Residential Designed Manufactured Home is defined as a manufactured home which is constructed in conformity with 24CFR Part 3280 of the Manufactured Home Construction and Safety Standards compiled by the US Dept. of Housing and Urban Development (HUD 1976) and meets or exceeds the following criteria:
  - 1) A minimum width of 20 feet
  - 2) Meets the minimum square footage requirement of 910 sq. ft.
  - 3) The roof is of a type commonly used in residential construction with a pitch of at least 4/12 to accommodate snow load; and, is of an architectural style compatible with other homes in the area.
  - 4) The exterior siding is of a type of material commonly used in site-built residential construction.
  - 5) All towing devices, wheels, axles and hitches are removed.
  - 6) It is installed on a permanent foundation and skirted as described by the Uniform Building Code of the NYS Code
- c. Any additions to a manufactured housing unit shall comply with Subchapter B of the NYS Building Code.
- d. When an existing manufactured unit is replaced, the replacement shall conform to the current Zoning Law.
- e. Parks permitted only as a Residential PDD are subject to the PDD regulations as set forth in Article V of this Law and to all parts of this section.

B. Non-Residential Uses and Structures:

- 1. Lot:

a. area, minimum	80,000 sq. ft.
b. width, minimum	300 ft.
c. coverage, maximum	50%

2. Principal Structure and Accessory Structures:

a. front yard setback	100 ft.
b. side yard setback	30 ft.
c. rear yard setback for principal structures	50 ft.
d. rear yard setback for accessory structures	50 ft.
e. maximum height	50 ft.

**ARTICLE V PLANNED DEVELOPMENT DISTRICTS**

Section 500 Purpose

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

Section 501 Objectives

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

1. Work as a concentrated whole unit, being self-contained and non-conducive to expansion outside its boundaries at a future date, unless such expansion when added to the original PDD can act with it to create a larger self-contained unit.
2. Provide open space as an integral part of the plan.
3. Provide convenient location of commercial and service areas.
4. Preserve trees, outstanding natural topography and geologic features and prevent soil erosion.
5. Make creative use of land and related physical development which allows an orderly transition of land from rural to more urban uses.

6. Make efficient use of land resulting in smaller networks of utilities and streets and thereby lowering costs for construction, maintenance and housing.
7. Provide a development pattern in harmony with the objectives of the Town and County comprehensive plans.
8. Provide a more desirable environment for dwelling, working and/or recreation than would be possible through the strict application of the regulations in this local Law.

Section 502 District Regulations

A. Once lands have been rezoned by the Town Board as a Planned Development District, the set of use and dimensional specifications approved in the Planned Development District site plan application shall replace those found elsewhere in this Law and shall become the basis for continuing land use controls. In Planned Development Districts all structures and uses shall be subject to the following regulations:

1. Permitted Uses: All variety and types of residential uses, including residential parks containing factory manufactured, prefabricated or modular homes, with accessory and associated uses and the full range of nonresidential uses, in suitable spatial relationships and with adequate connectors.
2. Density of Development:
  - a. The Planning Board shall recommend the maximum residential density permitted for the residential portions of the Planned Development District as a whole at the time of development plan approval. Such residential portions of the Planned Development District may include those open spaces, or portions thereof, which serve them. The permitted maximum residential density for such areas shall not exceed four (4) dwelling units per acre.
  - b. The Planning Board may recommend and the Town Board may approve a site plan for a portion of the total Planned Development which proposes areas of higher residential density than the permitted maximum, provided that the overall density would not be increased beyond the specified maximum.

B. Residential Planned Development District (R-PDD)

1. Residential Lot and Structure Dimensional Requirements:
  - a. Lot:

1) area, minimum	10 Acres
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- 2) width, minimum 300 ft.
- 3) coverage, maximum 35 %

b. Principal Structure and Accessory Structures:

- 1) front yard setback 100 ft.
- 2) side yard setback 40 ft.
- 3) rear yard setback for principal structures 50 ft.
- 4) rear yard setback for accessory structures 30 ft.
- 5) maximum height 50 ft.

2. Open space: In every Planned Development District, a minimum of fifty percent (50%) of the total area of the tract shall be provided as open space. In a Planned Development, open space is that outdoor property not occupied by structures, roads or service areas and set aside in whole or in part to preserve the natural scenic beauty or openness of the area or for recreational use and enjoyment by the owners and residents of the Planned Development so as to enhance the present or potential value of the remaining lands in the Planned Development. That open space, which contains such structures; improvements and/or landscaping as are necessary and appropriate for the benefit and enjoyment of the owners and residents of the planned development in their active and passive recreational purposes, shall be designated as developed open space. Vehicular parking areas may be considered as developed open space for the purposes of this Law
3. Common property: Common property in a Planned Development is a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which is shared in common by the owners and residents of the development. When common property exists, the ownership of such common property maybe either public or private. Where common property exists in private ownership, satisfactory arrangements must be made for the improvement, operation and maintenance of such common property and facilities.
4. Ownership: The tract of land for a Planned Development may be owned, leased or controlled either by a single person, a corporation or by a group of individuals or corporations. An application must be filed by the owner or his designee or jointly by the owners or their designees of all property included in the tract. In the case of multiple ownership, the development plan and the site plan shall be binding on all owners.

C. Commercial Planned Development District (C-PDD)

Intent:

This zone is designed to allow commerce to flourish in the Town in areas proximate to adequate transportation routes and infrastructure. Since some uses in this zone could, if improperly designed, cause harm to adjacent or nearby activities, performance standards and site design criteria are

sometimes required. Generally, industry in this zone will generate minimal volume of employee and truck traffic; create little or no noise, odor, glare, smoke, or dust.

1. Commercial Lot and Structure Dimensional Requirements:

a. Non-residential Structures and Uses:

- 1) area, minimum 2 acres
- 2) width, minimum 250 ft.
- 3) coverage, maximum 35 %

b. Principal Structure and Accessory Structures

- 1) front yard setback 100 ft.
- 2) side yard setback 30 ft.
- 3) rear yard setback for principal structures 50 ft.
- 4) rear yard setback for accessory structures 30 ft.
- 5) maximum height 50 ft.

D. Industrial Planned Development District: (I-PDD)

Intent:

This district is intended for uses which focus on the movement, storage, or processing of raw materials or finished/semi-finished goods. Good access to major transportation routes (highway) is to be encouraged, as is separation from and buffering from nearby residential areas. Performance standards, especially those emphasizing environmental protection, will be a crucial part of this district's review criteria.

1. Industrial Lot and Structure Dimensional Requirements:

a. Lot:

- 1) area, minimum 10 acres
- 2) width, minimum 500 ft.
- 3) coverage, maximum 35 %

b. Principal Structure and Accessory Structures:

- 1) front yard setback 100 ft.
- 2) side yard setback 50 ft.
- 3) rear yard setback for principal uses 50 ft.

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|---|---------|
| 4) rear yard setback for accessory uses | 30 ft.  |
| 5) maximum height                       | 100 ft. |

## 2. Industrial Performance Standards

- a. Fire and Explosion Hazards: There shall be no activities or storage involving inflammable and explosive materials without adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire-suppression equipment and devices. There shall be no burning of waste materials. There shall be no storage of crude oil or any of its volatile products or other highly flammable liquids in above-ground tanks except in accordance with state regulations and all such tanks having capacity of ten thousand gallons or more shall be properly diked with dikes having a capacity equal to one and one-half times the capacity of the tanks or tanks surrounded.
- b. Radioactivity: There shall be no activities which emit radio- activity dangerous to health or adversely affecting the operation of any equipment.
- c. Water and Air Pollution: There shall be no emission into the atmosphere of fly ash, dust, fumes, vapors, gases, and other forms of air pollution which can cause damage to life or property, or discharge into any sewage disposal system, or stream, or into the ground, of any materials of such a nature or temperature as can contaminate any water course or supply, or can cause any dangerous or unhealthy condition, except upon approval of applicable State and/or Local agencies having jurisdiction to regulate such air or water pollution.
- d. Heat, Cold, Movement of Air, or Dampness: There shall be no activities which produce any material effect on the temperature, motion or humidity of the atmosphere at the lot line or beyond.

### Section 503 Application Procedure

- A. General: The fact that an application complies with all of the specific requirements set forth herein shall not be deemed to create a presumption that the proposed development would result in a more efficient and desirable development than could be accomplished by the use of conventional zoning categories nor that it would result in compatibility with the surrounding development, nor shall such compliance, by itself, be sufficient to require the approval of the development plan, the site plan or the granting of the zoning amendment to create a Planned Development District. Such a zone shall be recommended or rejected by the Planning Board for action by the Town Board on a finding that the application is or is not proper for the comprehensive and systematic development of the Town of Ira.
- B. Application for development plan approval: In order for the Planning Board and the developer to reach an understanding on basic design requirements, the developer shall submit a plan of his proposal to the Planning Board. Such a plan shall be to scale and shall be supplied in such form and quantity as the Planning Board may require and shall include the following information in addition to any other information which the applicant deems necessary to support his application:

1. The principal physical characteristics of the site, including an analysis of the soils and subsoils, the location of major stands of trees, streams, floodplains and rock outcroppings.
2. The topography of the site with contour intervals of not more than five (5) feet of elevation, areas of the site where grades exceed three percent (3%) portions of the site with a moderate to high susceptibility to erosion, flooding or ponding and a preliminary grading plan with, five-foot contour intervals. (In large-scale developments, only the grading plan of the first stage will be required at this time.)
3. An analysis of the relationship of the site to the surrounding community, including significant parcels of vacant land and the character of nearby built-up areas.
4. Principal ties to the community at large with respect to transportation, circulation, water supply, sewage disposal and other pertinent public utilities.
5. General description of the availability of other community facilities such as schools, fire protection and cultural facilities, if any, and some indication of how these needs are to be accommodated.
6. The proposed land use plan indicating the location, numbers and types of dwelling units in each residential area; business and/or industrial areas, parks, playgrounds, recreational structures and facilities; open spaces; common property; and all other uses; the major and minor circulation pattern with all existing rights-of-way and easements, parking areas and pedestrian ways. In large-scale staged developments, the requirements would be as follows: The proposed land use plan showing generally the location and size of all major land uses, including residential (indicating numbers and types of dwelling units), business and industrial areas, parks, playing fields and other major recreational and open space uses, schools and other sites of major community facilities, major vehicular and pedestrian circulation systems and all other major physical elements.
7. A generalized landscaping plan or, in the case of large-scale staged developments, a narrative description of the landscape plan along with typical plans for landscaping representative areas.
8. A plan for the major drainage system prepared in accordance with the Town of Ira's Stormwater Management and Erosion Control Local Law # 1 1993.

C. Review of Development Plan by Planning Board:

1. The Planning Board shall review the development plan and its related documents and shall render its report within sixty-two (62) days of the date when all of the necessary application material has been presented. The Planning Board may hold public hearings on the development plan to assist it in the preparation of its report. If no report has been rendered within sixty-two (62) days, unless such time limit has been extended by formal action of the

Planning Board, which action shall be submitted in writing to the applicant, the report shall be deemed to be favorable, and the Town Board shall be so informed.

2. A favorable report shall be based on the following findings, which shall be included as part of the report:
  - a. The proposal implements the goals and policies expressed in the Town General Plan.
  - b. The proposal meets all the general purposes of this Law.
  - c. The proposal represents a creative approach to the use of land through innovation and flexibility.
  - d. The proposal is conceptually sound in that it meets a community need and it conforms to accepted design standards in the proposed roadway system, land use configuration, open space system and drainage system.
  - e. There are adequate services and utilities available or proposed to be made available in the construction of the development.
3. An unfavorable report shall state clearly in writing the reasons therefor and, if appropriate, point out to the applicant what might be necessary to receive a favorable report.

D. Application for Planned Development Districting:

1. Upon receipt of a report from the Planning Board, the Town Board may then consider the application for the Planned Development District as any other application for amendment of the Zoning Law and may establish a date for the conduct of a public hearing on such an amendment as provided by law.
2. The Town Board shall take action upon the application for redistricting within sixty (60) days immediately following the Planning Board review. Action taken by the Town Board shall be in writing and shall state clearly the reasons therefor.

E. Zoning for Planned Development:

1. If the Town Board grants the redistricting to Planned Development, the Zoning Map shall be so amended. When rezoning a parcel, the Town Board shall establish the maximum number of dwelling units therein and may, if it feels it necessary in order to fully protect the public health, safety and welfare of the community, attach to its zoning resolution any additional requirements for the applicant to meet. Such requirements may include, but need not be limited to, visual and acoustical screening, land use mixes, order of construction and/or occupancy, vehicular and pedestrian circulation systems, availability of sites within the area for necessary public services,

such as schools, firehouses and libraries, protection of natural and/or historic sites and other physical or social demands.

2. The Town Board shall require a review and recommendation of the final site plan, or portions thereof, by the Planning Board prior to approving it and directing the issuance of a building permit by the Zoning Administrative Officer or, in the case of publicly sponsored development, prior to the commencement of construction.

F. Site Plan Submission: In an area designated as a Planned Development District, a detailed site plan must be approved by the Town Board upon review of the Planning Board prior to the issuance of a building permit or, in the case of a publicly sponsored development, prior to commencement of construction. The site plan for all or a portion of the Planned Development District shall be consistent with the development plan. It shall show:

1. All of the information normally required in the submission of a preliminary subdivision plan.
2. An area map showing the applicant's entire holding, that portion of the applicant's property under consideration and all properties, subdivisions, streets and easements within five hundred (500) feet of the applicant's property.
3. The proposed location, coverage and use of all buildings other than single-family dwellings and industrial structures. If a building is a multiple-family dwelling, the number of dwelling units, classified by the number of bedrooms
4. All roads, streets, parking areas and pedestrian ways.
5. Existing topography and final grading plan contour intervals of not more than two (2) feet.
6. The proposed landscaping, lighting, signing and screening plans. The sites of all public or private common areas, including schools, parks, playgrounds and other community facilities, identifying land to be dedicated to public use.
7. If the application is for one (1) stage of the total development, the manner in which this stage is related to past and future stages and to the entire development.
8. A plan showing parking facilities, areas of open space, density and common areas.
9. Any other information required by the Town Board and the Planning Board to evaluate the consistency of the detailed site plan with the approved development plan.

G. Site Plan Review: Upon review by the Planning Board of detailed site plan, it shall determine:

1. Whether the detailed site plan is consistent with, and carries out, the intent of the development plan as approved.

2. Whether, in the opinion of the Planning Board, the arrangements for the ownership and maintenance of the common land are workable and will result in the permanent preservation of such land for its indicated use.
  3. Whether, if the application involves less than the total area of the Planned Development, the development proposed under the site plan could exist by itself as a unit capable of sustaining an environment of continuing quality and stability consistent with the development plan. Stages of total communities or new towns may be waived from this determination.
- H. Site Plan Approval: Within sixty-two (62) days of the receipt of the application for site plan approval, the Planning Board shall deliver a recommendation for approval or disapproval to the Town Board. If such recommendation is not made within sixty-two (62) days, the Planning Board shall be deemed to have approved the site plan. The Town Board shall then render a decision and so notify the applicant in writing.
1. Upon approving an application, the Town Board shall endorse its approval on a copy of the site plan and forward it to the Zoning Administrative Officer who shall then issue a building permit to the applicant if the project conforms to all other applicable requirements. Site Plan approval entitles the developer to record with the County Clerk a subdivision plat for lands within the approved site plan, provided that the site plan has been given subdivision approval by the Planning Board and the signature of its Chairperson is affixed thereon.
  2. Upon disapproving an application, the Town Board shall notify the applicant, the Planning Board and the Zoning Administrative Officer in writing of its decision and its reasons for disapproval.

#### Section 504 Miscellaneous Regulations

- A. Following initial construction and occupancy, any changes other than use changes shall be considered as a site approval request under this Article VI of this Law.
- B. Use changes must be considered as zoning changes and must be acted upon by the Town Board as such.
- C. Except for public developers, no building permits shall be issued for construction within a Planned Development until improvements have been installed or cash or a letter of credit has been provided in a manner and amount satisfactory to the Town Board.

### **ARTICLE VI CONTROLLED SITE REVIEW**

#### Section 600 Application

Structures and uses which are designated as permitted upon Controlled Site Review in the Zoning District regulations shall be authorized only after review as provided in this Article VI.

## Section 601 Procedure

- A. An application, which shall include detailed area, plot, and landscaping plans, shall be made to the Zoning Administrative Officer, who shall immediately refer it to the Planning Board.
- B. The Planning Board shall review the application to determine the compliance of the plans with the requirements set forth in this Article VI. Within sixty-two (62) days after the date a complete application was received by the Zoning Administrative Officer, the Planning Board shall, by resolution, approve, approve the specified changes or disapprove the site plan. Said sixty-two (62) day period may be extended for one additional period of sixty-two (62) days by resolution of the Planning Board upon a finding that additional time is necessary to complete the review of the application. Any additional extensions past one-hundred twenty-four (124) days shall be subject to the consent of both the applicant and the Planning Board. During its review, the Planning Board may have informal conferences with the applicant and accept amended plans and substitution for those originally filed.
- C. Upon receipt of the resolution of the Planning Board, and if required, the receipt of amended plans making the specified changes, the Zoning Administrative Officer shall issue or deny a permit for proposed structure and/or use.

## Section 602 Additional requirements and regulations

Structures and uses designated as permitted upon Controlled Site Review shall conform to all the regulations of the district in which they are located and to any particular regulations which apply to them under other provisions of this Law. In addition, they shall be oriented in their location upon the site as to layout, screening, signs, means of access, landscaping and architecture. In reviewing applications, the Planning Board shall give consideration to:

- A. The Master Plan or any Comprehensive Plan adopted by the Town of Ira.
- B. Traffic and access to streets and highways.
- C. Safety from fire, flood, and other dangers.
- D. Provision of adequate light and air.
- E. Prevention of land overcrowding and undue concentration of population.
- F. Transportation, water, sewerage, schools, parks, and other public requirements.
- G. Character, height, and use of structure, provision of surrounding open space, screening, landscaping, use of exterior lighting, and impact on visual resources.
- H. Where appropriate, the provision of adequate transition between adjacent uses and districts.

## ARTICLE VII SPECIAL PERMIT USES

### Section 700 Application

Structures and uses which are designated as permitted upon issuance of a Special Permit in the zoning district regulations shall be authorized only after the issuance of a permit as provided in this Article VII.

### Section 701 Application of Standards

- A. The types of uses for which Special Permits are required shall be deemed to be permitted in their respective districts, subject as to each specific use to the satisfaction of the requirements and the standards set forth in this section. Each specific use for which a permit is sought shall be considered as an individual case and shall conform to the detailed application of the following standards in a manner appropriate to the particular circumstance of such use.
- B. The Planning Board shall grant the issuance of Special Use Permits where required under the provisions of this Law.
- C. Special Permits shall be issued by the Planning Board upon the following findings:
1. The proposed use is consistent with an orderly and appropriate development of the neighborhood and surrounding area and follows the Comprehensive Plan for the Town of Ira.
  2. The proposed use is not unreasonably detrimental to the existing structures or uses in the neighborhood by reason of noise or vibration, odor or other form of air pollution, fire or explosive hazard, glare or any other substance, condition, or element, or size of operation.
  3. The proposed use, as to general character, height and use of structure, the provisions of surrounding open space and treatment of grounds and as to its effect on street capacity and use, is sufficient to safeguard public health, comfort and convenience and to preserve the general character of the neighborhood in which such structure is to be placed or such use is to be conducted.
  4. Where appropriate, the proposed use is an adequate transition between adjacent uses or districts.
  5. The use thereof will not cause undue traffic congestion or create a traffic hazard.
  6. The Board may specify any reasonable requirements to safeguard the public health, safety and welfare in granting the permit.

(Amended by Local Law # 1 of 2011)

Section 702 Special Use Permit Standards

- A. Kennels and veterinary establishments which harbor or board, animals with access to outdoors:  
The lot area shall be a minimum of five (5) acres. There shall be front, side and rear yards of at least two hundred (200) feet unoccupied by structures, fences or runs. In order to reduce noise, the design of the structure shall deny the dogs a view of the highway.

**ARTICLE VIII SUPPLEMENTAL REGULATIONS**

Section 800 Parking

- A. Off-street parking requirements: For each structure hereafter constructed, reconstructed or altered, the following parking spaces shall be provided and maintained on the same lot with the structure except as set forth in Subsection C of this Section 800.

<u>Structure</u>	<u>Number of Parking Spaces</u>
One and two family dwelling	2 for each dwelling unit
Multiple-family dwelling	2 for each dwelling unit
Hotels, Motels and Tourist Homes	1 for each guest bedroom, plus spaces required by this section for on-site restaurants, banquet rooms and/or meeting rooms.
Churches, Auditoriums, Theaters, Funeral Homes and other places of public assembly.	1 for each 4 seats at maximum capacity
Offices	1 for each 200 sq.ft. of gross floor area plus reservation of space for additional parking equal to 50% of required parking spaces.
Shopping Centers	1 for each 100 sq.ft. of gross floor area plus reservation of space for additional parking equal to 50% of required parking spaces.
Industrial or Manufacturing	1 for each 500 sq.ft. of gross floor area.
Warehousing	1 for each 2,000 sq.ft. of gross floor area plus reservation of space for additional parking equal to 50% of required parking spaces.

Restaurants	1 for each 60 sq.ft. of gross floor area.
Bowling alleys	6 for each alley.
Other Commercial enterprises	1 for each 300 sq.ft. of gross floor area plus reservation of space for additional parking equal to 50% of required parking spaces.
Institutions, Hospitals, Nursing Homes	1 for each 3 beds
Accessory Uses	1 for each 250 sq.ft. of gross floor area plus 2 spaces per dwelling unit
Schools	1 for each 100 sq.ft. gross floor area plus reservation of space for additional parking equal to 50% of required parking spaces.
Motor Vehicle Service Station and Public Garages	3 per bay, minimum of 5

B. Loading space requirements: For each structure hereafter constructed, reconstructed or altered, loading spaces will be provided as indicated:

<u>Structure</u>	<u>Number of Loading Spaces</u>
Storage and Shopping Centers	1 for each 5,000 sq.ft. of gross floor area.
Funeral Homes	2 per establishment
Warehousing, Industrial or Manufacturing	1 for each 10,000 sq.ft. of gross floor area

C. Off-site parking areas: Up to fifty percent (50%) of the parking spaces required for a structure in Subsection A of this Section 800 may be otherwise located upon the special permit and approval of the Planning Board as provided in Article VII and upon findings that:

1. It is impractical to provide parking on the same lot with the structure.
2. The required space is fully provided in a permanent and accessible manner.
3. The off-site parking area is within five hundred (500) feet of the site of the structure and within the same or a less restricted district.

D. Business vehicles, boats and trailers in residential districts: No commercial motor vehicle, machinery or equipment shall be parked or stored out of doors in residential districts except in the side or rear yard and no closer than five (5) feet from the side or rear property lines.

Section 801 Signs

A. In an agricultural / residential district, no sign shall be erected or used except:

1. A professional or announcement sign which may be illuminated on one (1) or two (2) faces but shall not be flashing, revolving, animated or otherwise in motion nor more than two (2) square feet in area on each face.
2. A non-illuminated temporary advertising sign, not more than twelve (12) square feet in area, for the sale or rental of the property on which it is located; and on a corner lot, two (2) such signs, one (1) facing each street.
3. A non-illuminated advertising sign, not more than thirty-two (32) square feet in area, for the sale of products grown or produced on the premises; and on a corner lot, two (2) such signs, one (1) facing each street.
4. Signs appropriate to a public or quasi-public building or necessary to legal process.
5. Identification signs for residential subdivisions not exceeding 32 sq.ft. when: (i) approved by the Planning Board as a part of subdivision approval, or (ii) otherwise approved by the Zoning Board of Appeals.

B. In all other districts, no sign shall be erected or used except:

1. Those permitted in residential and agricultural districts.
2. Not more than three (3) signs, which may be illuminated on one (1) or two (2) faces but shall not be flashing, revolving, animated or otherwise in motion, having a total area not greater than ten percent (10%) of the area of the building facade facing the street and in no instance greater than one hundred (100) square feet. These signs shall be limited to advertising a business conducted on the premises.
3. Advertising or display signs for shopping centers designed in accordance with an integrated sign plan approved by the Town of Ira Planning Board pursuant to Articles V and VII.

C. General regulations: The following regulations shall apply to all signs:

1. No sign in any district may extend over a sidewalk or other public way.
2. No sign in any district unless attached to a building shall be located nearer to a street line than twenty-five (25) feet; nor, except in business or industrial districts, nearer to a side line than ten (10) feet.

3. Building permits shall be required for all signs ten (10) square feet in area or larger, which shall be regarded as structures within the meaning of this Law.
4. Advertising display upon any structure shall be regarded as a sign subject to this Law.
5. No sign attached to a building in any district shall project above the height of the wall upon which it is attached. No freestanding signs shall be higher than twenty-five (25) feet above grade.
6. No illuminated sign or outdoor illumination shall be erected or used so that light will directly reflect toward residences on adjoining lots, toward residential districts within one thousand (1,000) feet or toward a highway so as to create a traffic hazard.
7. All accessory advertising devices of commercial enterprises other than signs permitted by the above regulations, such as, but not limited to, bunting, pennants, pinwheels or streamers, are prohibited.

#### Section 802 Height Limitation Exceptions

The height limitations of this Law shall not apply to:

- A. Churches, schools, hospitals, water supply towers and other public and quasi-public buildings, provided that for each foot by which the height permitted in the district is exceeded, the side, front and rear yards required in the district shall be each increased an additional foot.
- B. Farm structures, church spires, belfries, cupolas, domes, radio towers, monuments, television antennas, observation towers, flagpoles, ventilators, skylights, water tanks and necessary appurtenances usually carried above roof levels. Such features however, shall be erected only to such height as is necessary to accomplish the purpose they are to serve.

#### Section 803 Nonconforming Uses

- A. All lawful structures and uses not conforming to the regulations of the district in which they are located at the time of the effective date of this Law or amendments thereto shall be known and regarded as "nonconforming."
- B. A nonconforming structure or use may be continued subsequent to adoption of this Law, provided that no such structure may be enlarged or altered in a way which increases its nonconformity, and no such use shall be enlarged or increased to occupy a greater area of land than was occupied at the effective date of adoption of this Law. Nonconforming junkyards and automobile wrecking yards shall amortize their operations within eighteen (18) months of the effective cease to operate as a junkyard or automobile wrecking yard. All junk, materials, scrap cars or similar items shall be removed from the property on or before the above date, or the nonconformance shall be deemed to have continued in violation of this provision.

- C. Any nonconforming use may be extended throughout any parts of a structure which were manifestly arranged or designed for such use at the time of adoption of this Law. A nonconforming use may be changed to a use of the same classification, and, when changed to a more restrictive classification, such use thereafter shall not be changed to a less restrictive classification.
- D. To avoid undue hardship, nothing herein contained shall require any change in plans, construction or designated use of a structure for which a building permit was issued more than thirty (30) days prior to the effective date of this Law and the construction of which is begun and diligently prosecuted within three (3) months after the enactment hereof and which building shall be completed within one (1) year of the effective date of this Law.
- E. On any structure devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, provided that the cubical content of the structure, as it existed at the time of passage of this Law, shall not be increased.
- F. Nothing in this Law shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any Town official charged with protecting the public order of such official.
- G. Reversion of nonconforming structures and uses: A nonconforming structure or use may not be altered, rebuilt or resumed except in conformity with the regulations for the district in which it is located if:
  - 1. Either a nonconforming structure or use has once been changed to a conforming use.
  - 2. A nonconforming use of land ceases for any reason for a period of more than ninety (90) days.
  - 3. A nonconforming use of a structure has ceased for 2 consecutive periods of six (6) months or for eighteen (18) months during any three year period.
  - 4. A nonconforming structure is destroyed by any means to the extent of fifty percent (50%) or more of either its value or its area.
- H. District changes: Whenever the boundaries of a district shall be changed so as to transfer an area from a district of one classification to a district of a different classification, the foregoing provisions shall apply to nonconforming uses created by such transfer.

Section 804 Park Buffer Strip

Add fifty (50) feet to rear and side yard setbacks where property adjoins a public or private park.

Section 805 Corner Lots

- A. In the case of a corner lot, each yard abutting a street shall have a minimum depth equal to the front yard depth of the adjacent lot on the same street or the front yard depth required for the district in which such adjacent lot is located, whichever is the lesser, and if in a residential district shall be unoccupied except for fences and/or other decorative or landscaping uses. Each other yard of such corner lot shall have a minimum width equal to the width of the side yard which it adjoins or the side yard width of the district in which such adjoining side yard is located, whichever is the lesser, and if such corner lot is in a residential district shall be unoccupied adjacent to the boundary of the adjoining yard to such minimum width except for fences and/or other decorative or landscaping uses.
- B. On corner lots, no berm, fence, wall, hedge or other planting or structure more than two (2) feet in height shall be erected, placed or maintained within the triangular area formed by the intersecting street lines and a straight line joining said street lines at points which are thirty-five (35) feet distant from the point of intersection, measured along said street line.

**ARTICLE IX ADMINISTRATION**

Section 900 Code Enforcement Officer - Duties and Powers

The provisions herein shall be administered and enforced by the Code Enforcement Officer who shall be appointed by the Town Board, and shall have the power to:

- A. Receive and examine applications for Zoning / Building permits for compliance with this Law, Flood Hazard Regulations(FHR), and the New York State Uniform Fire Prevention and Building Code (NYS Building Code) and to refer applications to the Planning Board for review and recommendation, when deemed advisable.
- B. Issue Zoning / Building permits after a plan review shows compliance with this Law, FHR, and/or the NYS Building Code, however, the issuance of a Zoning / Building Permit shall not be deemed a waiver of the requirements of any Town, County, State, or Federal Regulations.
- C. Conduct inspections and issue Certificate of Occupancy or Certificate of Compliance when there is compliance with this Law, FHR, and/or the NYS Building Code.
- D. Issue stop, cease, and desist orders, an order in writing correction of all conditions found to be in violation of the provisions of this Law, FHR, or NYS Building Code. Such written orders shall be served personally or by certified mail upon persons, firms or corporations deemed by the Officer to be in violation.

- E. With the approval of the Town Board, or when directed by them, institute in the name of the Town, any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, storage, or use; restrain, correct, or abate such violation, so as to prevent occupancy of or use of any building, structure or land, or to prevent any illegal act, conduct business, or use in or about such premises.
- F. Revoke by order, a Zoning / Building permit issued under a mistake of fact or contrary to the provisions of this Law, FHR, or the NYS Building Code.
- G. Maintain a map showing the correct zoning classification of lands within the Town.
- H. Conduct fire safety inspections of areas of public assembly as defined in Part 606 of the NYS Building Code at least once per year.
- I. Conduct fire safety inspections of all multiple dwellings and all nonresidential occupancies at intervals consistent with local conditions, as designated by resolution of the Town Board.
- J. Conduct inspections in response to bona fide complaints regarding conditions or activities allegedly failing to comply with the Zoning Law, FHR, or the NYS Building Code.
- K. Receive applications for Special Permits and forward these applications to the Planning Board for action thereon.
- L. Following refusal of a permit, to receive applications for appeals from alleged error of the Officer and variances and forward these applications to the Board of Appeals for action thereon within three (3) days.
- M. Keep records of the activities specified in subdivisions (A) through (L) of this section and of fees charged and collected.
- N. Upon the request of the Town Board, Planning Board, or Board of Appeals, present to such bodies facts, records, or reports which they request to assist them in making decisions.

Section 901 Zoning / Building Permits and Inspections

- A. Zoning / Building permits shall be required for any construction, reconstruction, extension, moving of structures, or land use changes in this Law and/or the NYS Building Code and shall be issued by the Code Officer.
- B. Building permits shall be required for any work which must conform to the NYS Building Code. The application for a building permit shall provide sufficient information that the intended work meets the requirements of the NYS Building Code.

- C. Inspections shall be required on all construction that requires a Certificate of Occupancy or Certificate of Compliance. These inspections will be done at such times during the course of construction to permit the observation of the foundation, structural elements, electrical systems, plumbing systems, heating, ventilation and air conditioning systems, fire protection and detection systems, and exit features.
- D. Certificate of Occupancy or Certificate of Compliance shall be required for all work which a building permit is required to be issued and for all buildings which are converted from one general occupancy classification to another as defined in the NYS Building Code.
- E. Certificate of Occupancy or Compliance shall not be issued until all inspections have been made and the construction or change of use meets this Law or NYS Building Code and all County, State, and Federal regulations.
- F. Exempt from Zoning / Building permits: General maintenance work which does not affect structural features, painting, tilling the soil, raising animals, constructing fences, terraces, landscaping, and small storage sheds, however all such activities shall conform to the requirements of this Law and the NYS Building Code. Alterations to existing buildings are exempt, provided that they cost less than \$10,000, do not affect structural features, fire safety features such as smoke detectors, sprinklers, required fire separations, exits, installation or extension of electrical systems, and do not include the installation of solid fuel-burning heating appliances and associated chimneys and flues.
- G. Zoning / Building permits shall be issued for a term of one (1) year, renewable for two (2) consecutive years, provided, however, that if the work is not commenced within six (6) months after issuance of the Zoning / Building permit, the permit shall automatically expire and a new permit shall be required before such work or change in use commences.
- H. Zoning / Building permits shall be granted or refused within fifteen (15) days after a completed written application has been filed with the officer except as provided elsewhere herein. All applications with accompanying plans and documents shall become, and be preserved, as a public record, subject to the disposition of the Town Board.
- I. It shall be the responsibility of the applicant to notify the Officer when it is time to make inspections or when a project is complete.

#### Section 902 Fees

The applicant, at the time of application for a Zoning / Building permit, shall pay to the appropriate Town Official, the fee for said permit as established by the Town Board. The Town Board may, from time to time, amend the fee schedule, by a resolution of such Board.

- A. The Zoning Board of Appeals and the Planning Board, in consultation with the Town Board shall from time to time, establish written rules and procedures for the management of applications brought before the Board and detailing the necessary information required with such application.

- B. No application shall be acted upon in any manner until a complete application shall have been received. The completeness of the application shall be determined by the reviewing agency.

#### Section 903 Public Hearing and Notice

- A. The Planning Board and Zoning Board of Appeals may hold a public hearing on any matter before it if the Board finds that public comments will facilitate its review.
- B. The Board shall conduct the public hearing pursuant to its Rules of Procedure and applicable provisions of law. If applicable and to the extent practical, the public hearing on the proposal may be held concurrently with any public hearings that may be held pursuant to SEQR. The public hearing shall be closed when the Board is satisfied that it has received adequate public input and when comments from advisory or mandatory referrals have been received, unless the allotted review time for the referrals has expired.

#### Section 904 Agricultural Data Statement

- A. Submission, evaluation: Any application for a special use permit, site plan approval, use variance, or subdivision approval requiring municipal review and approval by the Town Board, Planning Board, or Zoning Board of Appeals pursuant to this Article, that would occur on property within an agricultural district containing a farm operation or on property with boundaries within five hundred feet of a farm operation located in an agricultural district, shall include an agricultural data statement. The Town Board, Planning Board, or Zoning Board of Appeals shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within such agricultural district. The information required by an agricultural data statement may be included as part of any other application form required by local law, ordinance or regulation.
- B. Upon the receipt of such application by the Planning Board, Town Board, or Zoning Board of Appeals the clerk of such board shall mail written notice of such application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location, and may be sent in conjunction with any other notice required by state or local law, ordinance, rule or regulation for the said project. The cost of mailing said notice shall be borne by the applicant.
- C. An agricultural data statement shall include the following information: The name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within five hundred feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.

- D. Notice to county, regional, or metropolitan planning agency: The Clerk of the Town Board, Planning Board, or Zoning Board of Appeals shall refer all applications requiring an agricultural data statement to the County Planning Board.

#### Section 905 Board of Appeals

- A. Creation, appointment and organization: A Board of Appeals, as previously created by the 1974 Zoning Ordinance of the Town of Ira, is hereby continued. Said Board shall consist of five (5) members appointed by the Town Board, who shall also designate the Chairperson. The terms of office of said Board of Appeals shall be five (5) years. The Board of Appeals shall prescribe rules for the conducting of its affairs.
- B. Powers and duties: The Board of Appeals shall have all the powers and duties prescribed by law and by this Zoning Law, which are more particularly specified as follows:
1. Orders, Requirements, Decisions Interpretations, and Determinations: The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination and shall make such orders, requirements, decisions, interpretations or determination as in its opinion as to have been made in the matter by the administrative official charged with the enforcement of such Local Law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.
  2. Variances (area or use): to vary or adapt the strict application of any of the requirement of this Local Law in accordance with Town Law §267-b.

#### Section 906 Procedures for Appeals and Applications

- A. The Board of Appeals shall act in strict accordance with the procedures specified by law and by this Law. All appeals and applications made to the Board of Appeals shall be in writing on forms prescribed by the Board.
- B. Every appeal or application shall refer to the specific provision of the zoning law involved and shall exactly set forth the interpretation that is claimed, or the details of the variance that is applied for and the grounds on which it is claimed, as the case may be.
- C. The Board of Appeals shall fix a reasonable time for the public hearing required for every appeal or application and shall give public notice thereof by the publication in the official paper of a notice of such public hearing at least five (5) days prior to the date thereof and shall, at least five (5) days before such public hearing, mail notices thereof to the parties involved.

- D. Except for area variance applications, at least five (5) days before the date of the public hearing required by law on an application or appeal to the Board of Appeals, the secretary of said Board shall transmit to the Planning Board of the Town of Ira a copy of said application or appeal, together with a copy of the notice of the aforesaid public hearing and shall request that the Planning Board submit to the Board of Appeals its advisory opinion on said application or appeal; and the Planning Board shall submit a report of such advisory opinion prior to the date of said public hearing.
- E. In addition to the notice required by statute, notice shall be given of any application made under the provisions of this Article by mailing, at least five (5) days prior to the hearing upon such application, written notice of the substance of the application and the date, time and place of the hearing to all the owners of land which immediately adjoins the premises for which said application is made or which abuts the same street or streets as said premises and is within a distance of five hundred (500) feet, exclusive of street rights-of-way, of the exterior boundaries of the said premises, as the names and addresses of said owners appear in the latest completed assessment roll of the town. Failure to comply with this section shall not invalidate any action taken by the Board of Appeals.
- F. Every decision of the Board of Appeals shall be made by resolution, each of which shall contain a full record of the findings of the Board in the particular case. Each such resolution shall be filed in the office of the Town Clerk, by case number, under one or another of the following headings: "Interpretations," "variances," together with all documents pertaining thereto. The Board of Appeals shall notify the Town Board and the Planning Board of the Town of Ira of each variance granted under the provisions of this Law.

#### Section 907 Appeal to Court

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

#### Section 908 Fees

Appeals and applications before the Board of Appeals shall be accompanied by a payment to the Town in accordance with a Fee Schedule adopted by resolution of the Town Board.

#### Section 909 Review by Cayuga County Planning Board

The Zoning Board of Appeals shall refer variance applications to the County Planning Board when required by N.Y.S. General Municipal Law.

### **ARTICLE X DEFINITIONS AND WORD USAGE**

Section 1000 Definitions and Word Usage

A. Except where specifically defined herein, all words used in this Law shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word "lot" includes the word "plot"; the word "building" includes the word "structure;" the word "shall" is intended to be mandatory; "occupied" or "used" shall be considered as though followed by the words "or occupied."

B. As used in this Law, the following terms shall have the meanings indicated:

ABANDONMENT - The voluntary, absolute relinquishment, the giving up of a known right to which one is entitled, with the intention of permanently terminating or parting with such right.

"Abandonment" depends upon the concurrence of two (2) elements or factors:

1. The intention to relinquish, to permanently give up a known right to continue the nonconforming use: and
2. The cessation of such nonconforming use, and overt act or failure to act, implying that the owner intends to permanently cease from putting the premises to the nonconforming use or such other nonconforming use as may be permitted by this Law.

ACCESSORY STRUCTURE - A structure, the use of which is customarily incidental to that of the main building or structure and which is located on the same lot as that occupied by the main building or structure.

1. Unoccupied camp trailers and recreational vehicles.

ACCESSORY USE / HOME OCCUPATION - A use, not otherwise contrary to law, customarily incidental to the use of a building for dwelling purposes and including:

1. The office or studio of a physician or surgeon, dentist, artist, musician, lawyer, architect, teacher, real estate agent or other like professional person residing on the premises, including a child day-care facility as described in New York State Social Services Law §390(12) (b). There shall be no more than one (1) paid employee or assistant.
2. Home workshops which do not constitute a nuisance by reason of smoke, odor, vibrations, dust or noise. There shall be no paid employees or assistants.
3. Customary home occupations such as millinery, dressmaking and hairdressing conducted by a person residing on the premises, with no paid employees or assistants.
4. An "accessory use" may be conducted in the main building or in an accessory building, but in either case shall not occupy a floor area greater than that of twenty-five (25%) percent of the

area of the first floor of the main building. There shall be no commercial display visible from the street or advertising, except a small professional nameplate or announcement sign.

5. Among the uses that SHALL NOT be interpreted to be a home occupation are the following: animal hospital, commercial stables and kennels, restaurant, junkyard, dismantling business, repair garage, and small engine repair.

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

**APARTMENT** - Means a dwelling unit in a multiple family dwelling or a mixed occupancy building.

**APARTMENT BUILDING** - A building arranged, constructed or designed to be occupied by three (3) or more families living independently of each other, with ownership vested in other than the occupants thereof.

**BED AND BREAKFAST** - See TOURIST HOME

**BUILDING** - Any structure having a roof supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or chattel.

**BUILDING LINE, FRONT** - A line measured parallel to the center line of a street or highway and extends from one side lot line to another, in front of which no portion of a building or structure shall be built.

**BUSINESS** - Any commercial venture designed to generate income.

**CHURCH** - Any structure used for worship or religious instruction, including social and administrative rooms accessory thereto.

**CLASS 1 LIQUIDS** - Gasoline, oil and other petroleum products with a flash point below one hundred degrees Fahrenheit (100°F).

**CORNER LOT** - A parcel of land at the junction of and fronting on two (2) or more intersecting streets.

**DRIVE-IN SERVICE** - Includes restaurants, banks and the like where patrons enter the premises and are served or entertained in automobiles.

**DWELLING** - A house, apartment building, or other permanent building designed or used primarily for human habitation. A dwelling shall not be deemed to include a hotel, motel, or tourist home.

DWELLING UNIT - A dwelling or portion thereof providing a complete self-contained residential unit, with living, sleeping, cooking and sanitary facilities within the unit, for use by one (1) family.

DWELLING, SINGLE FAMILY - A detached residence designed for or containing only one (1) dwelling unit, and occupied by only one (1) family.

DWELLING, TWO FAMILY - A residence designed for or containing only two (2) dwelling units, and occupied by only two (2) families, with separate living, sleeping, cooking, and sanitary facilities for each.

DWELLING, MULTIPLE FAMILY - A residence designed for or containing three (3) or more dwelling units, and occupied by three (3) or more families, with separate living, sleeping, cooking, and sanitary facilities for each unit. Apartment houses are considered to be "Multiple Family Dwellings."

FAMILY - One (1) or more persons occupying the premises and living as a single housekeeping unit as distinguished from a group occupying a boardinghouse, lodging house, club, fraternity or hotel.

FARM - A parcel of land used principally in the raising or production of agricultural products and the necessary farm structures and storage of equipment used on the premises.

FLOOR AREA - The sum of the areas of the several floors of a building structure, including areas used for human occupancy, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches and attics not used for human occupancy.

FOUNDATIONS, PERMANENT - To be constructed of materials that are permanent in nature and shall be either a slab on grade or a wall with footers to be below frost line and have anchors to secure the structure to the slab or wall as required by the NYS Building Code.

GARAGE, PRIVATE - An enclosed space for the storage of one (1) or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one (1) car is leased to a nonresident of the premises. In no way does this include the repair of vehicles other than those of the occupant.

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

HOSPITAL - Unless otherwise specified, includes sanitarium, sanatorium, preventorium, clinic, and any other place for diagnosis, treatment or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

HOTEL - A building or group of buildings in which there are rental sleeping rooms for temporary lodging and which may also include dining rooms, kitchens, serving rooms, meeting rooms, ballrooms, and other facilities and services intended primarily for the accommodation of its patrons.

**JUNK** – Is the outdoor storage or deposit of two (2) or more inoperable unlicensed or unregistered motor vehicles, one (1) or more abandoned or inoperable appliances including but not limited to washers, dryers, dishwashers, refrigerators, freezers, stoves and televisions, one (1) or more abandoned or irreparably damaged pieces of indoor furniture including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs, and chests of drawers.

**JUNKYARD** - A lot, or part thereof, whether inside or outside a building, used primarily for the collecting, storing and sale of wastepaper, rags, scrap metal or discarded material; and/or for the collecting, dismantling, storage and salvaging of machinery or two (2) or more unregistered vehicles, whether in running condition or not, or parts thereof. The term shall include any place of storage or deposit for any purpose of used parts or waste materials from motor vehicles which, taken together, equal in bulk two (2) or more such vehicles.

**KENNEL** - The commercial boarding of animals and/or a breeding operation of licensed and registered dogs that are more than six (6) months old.

**LOT** - A parcel of land occupied or used or set aside and available for use as the site of one (1) principal structure or use with its accessory structures thereto or for any other purpose, in one ownership and not divided by a street, not including any land within the right-of-way of a public or private street upon which said lot abuts, even if ownership to such way is in the owner of the lot. A lot for the purpose of this Law may or not coincide with a lot of record.

**LOT AREA** - Total area within property lines, excluding the street or highway right-of-way.

**LOT COVERAGE** - That percentage of a lot covered by a building or structure.

**LOT LINES** - Any line dividing one lot from another.

**LOT WIDTH** - The width of a lot measured at the front building line.

**MOTEL** - See HOTEL

**MOTOR VEHICLE SERVICE STATION** - Any area of land, including structures and buildings thereon, that is used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used for polishing, washing, or otherwise cleaning such vehicles.

**NATURAL PRODUCTION USE** - The excavation and sale of sand, gravel, clay or other natural mineral deposit, the quarrying of any kind of rock formation or the drilling of a well for oil or gas production.

**NONCONFORMING STRUCTURE** - A building existing at the time of the enactment of this Law which does not conform to the regulations, except use regulations, of the district in which it is situated.

NONCONFORMING USE - A use of land or building existing at the time of the enactment of this Law which does not conform to the regulations as to use of the district in which it is situated.

NURSING HOME - A structure, other than a hospital, where persons are lodged and furnished with meals and nursing care for hire.

PARKING SPACE - An area for the temporary parking of a motor vehicle, capable of containing a rectangle nine (9) feet six (6) inches wide by nineteen (19) feet long and clear to a height of seven (7) feet, together with access aisles for maneuvering and passage to and from the public street. In all instances, the minimum width of the aisle shall be twenty-four (24) feet.

PERSON - Includes corporations, companies, associations, societies, firms and partnerships, as well as individuals.

POND - A body of standing water, smaller than a lake.

PUBLIC OR PRIVATE SCHOOLS - Buildings used for instruction of primary and secondary education (preschool through 12th grade).

RESTAURANT - A building or portion thereof where food and beverages, whether or not alcoholic, are sold to the public for consumption on the premises.

RETAIL OR PERSONAL SERVICE USE - A commercial activity characterized by the direct on-premise sale of goods and services within the building to the ultimate consumer, generally involving stock in trade such as are normally associated with department stores, food markets, shops and similar establishments. This term shall also include personal service shops such as barbershops, beauty salons and dry-cleaning or laundry services of less than four thousand (4,000) square foot gross floor area.

SETBACK - Except where otherwise specifically set forth in this Law, all yard setbacks shall be measured from property lines and the road centerlines.

SIGN - An emblematic design or device, including those which are composed of light rays only and including any billboard, pennant, announcement or symbol designed to inform or attract the attention of persons not on the premises on which the "sign" is located.

A. The following shall not be included in the application of the regulations:

1. Flags and insignia of any government, except when displayed in connection with commercial promotions.
2. Legal notices, identification or informational or directional signs erected or required by governmental bodies.
3. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.

4. Signs directing and guiding traffic and parking on private property but bearing no advertising matter and conforming to the regulations set forth in the New York State Department of Transportation Manual of Uniform Traffic Control Devices.

B. For the purpose of determining the number of signs, a "sign" shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without an organized relationship of elements or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single "sign." The surface area of a "sign" shall be computed as including the entire area within a geometric form or combinations of regular geometric forms comprising all of the display area of the "sign" and including all of the elements of the matter displayed. On two-sided freestanding signs and two-sided signs attached to and projecting perpendicularly from a building, with display surfaces on both sides, only one (1) side will be considered in the computation of the area. Structural members other than decorative frames, for the purpose of supporting signs and not bearing advertising matter, shall not be included in computation of surface area.

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

**STREET** - A public way which affords principal means of access to abutting properties.

**STREET LINE** - The dividing line between the street or highway right-of-way and the abutting real properties.

**STRUCTURE** - A combination of materials to form a construction that is safe and stable and includes, among other things, buildings, stadiums, platforms, radio towers, sheds, storage bins, billboards and display signs.

1. Small storage shed – a free-standing, storage structure under one hundred fifty (150) square feet.

**STRUCTURE, HEIGHT OF** - 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 for flat roofs, to the deck of mansard roofs and to the mean height between the eaves and ridge for gable, hip and gambrel roofs.

**STRUCTURE, PRINCIPAL** - A structure, the use or occupancy of which constitutes the main or principal use of the lot on which said structure is located.

**SWIMMING POOL** - A structure intended for bathing, swimming or diving purposes, made of concrete, masonry, metal or other impervious materials, and provided with a circulating and/or controlled water supply.

**TOPSOIL** - The surface layer of the soil containing more or less organic matter to a depth usually plowed in cultivation.

TOURIST HOME - A dwelling in which not more than four (4) sleeping rooms are provided or offered for overnight temporary accommodations for transient guests for compensation, with or without meals. A bed-and-breakfast which meets the above definition shall be deemed a "tourist home."

USE - The specific purpose for which land, a structure or a building is used or occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

YARD - An unoccupied space open to the sky on the same lot with a building or structure.

YARD, FRONT - That portion of a lot situated between the center line of a street or right-of-way and the front line of a building or structure.

YARD, REAR - That portion of a lot situated between the rear lot line and the rear line of a building or structure.

YARD, SIDE - That portion of a lot situated between the side lot line and the nearest side line of a building or structure and extending from the rear line of the front yard to the front line of the rear yard.

## **ARTICLE XI AMENDMENTS, REMEDIES, PENALTIES, SEVERABILITY CLAUSE, REPEALER, AND EFFECTIVE DATE**

### Section 1100 Amendments

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

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

- A. By publishing a notice of the time and place of the hearing at least ten (10) days prior to the date of such hearing in the paper of general circulation in the Town.
- B. A written notice of any proposed change or amendment affecting property within the protectively zoned area of a housing project authorized under the Public Housing Law, as such area is shown on an approved Zoning Map filed with the Zoning Officer, shall be given to the housing authority erecting or owning the project and to the government providing financial aid for assistance thereto at least ten (10) days prior to the date of such hearing.
- C. A written notice of any proposed change or amendment affecting property within five hundred (500) feet of the boundaries of any State Park or Parkway shall be given in the Regional State Park Commission having jurisdiction over such State Park or Parkway at least ten (10) days prior to the date of such hearing.

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

#### Section 1101 Zoning Referral to Cayuga County Planning Board

As required under New York General Municipal Law, certain variances, special permits and amendments shall be referred to the County Planning Board for review and recommendations.

#### Section 1102 Enforcement and Remedies

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

#### Section 1103 Fines and Penalties

- A. For any and every violation of the provisions of this Law.
  - 1. The owner, general agent, or contractor of a building or premises where such violation has been committed or shall exist.
  - 2. The owner, general agent, or contractor, lessee, or tenant of any part of a building or premises in which part such violations have been committed or shall exist.

3. The general agent, architect, building contractor, or any other person who knowingly commits, takes part, or assists in any such violation or who maintains any building or premises in which any such violation shall exist, shall be liable on conviction thereof to a fine or penalty not exceeding two hundred and fifty (\$250.00) dollars or imprisonment for a period not exceeding six (6) months or by both such fine and imprisonment. Each week continued violation shall constitute a separate additional violation.

B. Whenever a violation occurs, any person may file a complaint in regard thereto. Any such complaint must be in writing and shall be filed with the Code Enforcement Officer who shall record such complaints and immediately investigate and report thereon to the Town Board.

#### Section 1104 Severability

It is hereby declared to be the legislative intent that:

A. Should the courts declare any provision herein to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Law shall continue to be separately and fully effective.

B. Should the courts find the application of any provision or provisions herein to any lot, building or structure, or tract of land, to be invalid or ineffective, in whole, or in part, the effect of such decision shall be limited to the person, property, or situation immediately involved in the controversy, and the application of any such provision to other persons, property, or situation shall not be affected.

#### Section 1105 Repealer

The Ordinance adopted September 1, 1970 and cited as the Mobile Home Ordinance of the Town of Ira and all supplements, and amendments thereto, are hereby repealed; the Ordinance effective May 1976 and entitled Zoning Ordinance of the Town of Ira and all supplements, and amendments thereto, are hereby repealed; and the Ordinance adopted April 17, 1989 and entitled the Junk Yard Ordinance for the Town of Ira and all supplements, and amendments thereto, are hereby repealed; provided, if the present Law is held to be ineffective or invalid by reason irregularity in or impediment to its passage, this repealer shall be ineffective aforesaid, then and in the event the Ordinances entitled Zoning Ordinance, Mobile Home Ordinance, and Junk Yard Ordinance of the Town of Ira together with their supplements and amendments, would necessarily remain in full force and effect.

#### Section 1106 Effective Date

This Local Law shall become effective upon the filing of a certified copy thereof in the Office of the Secretary of State of the State of New York.