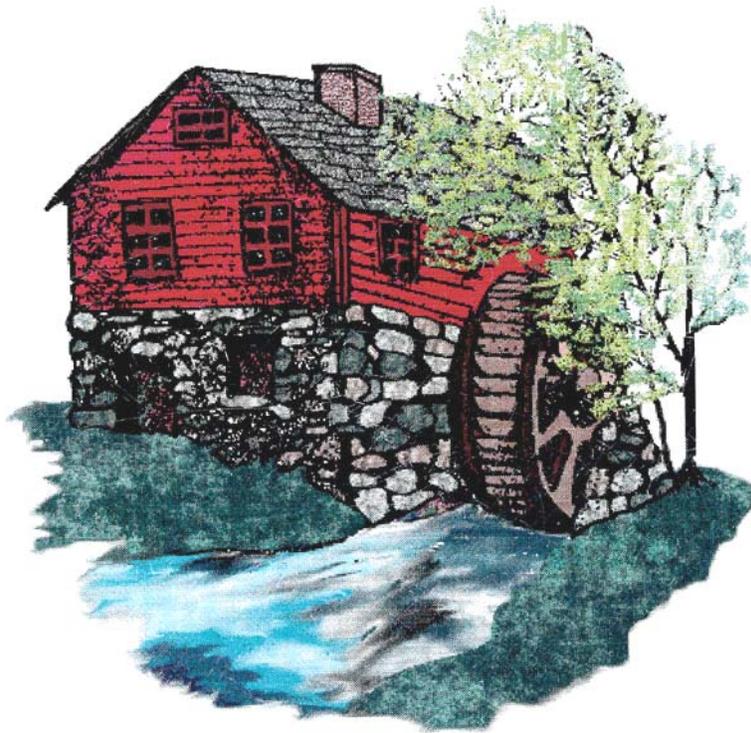


TOWN OF AMSTERDAM ZONING LAW

MONTGOMERY COUNTY, NEW YORK



ADOPTED: AUGUST 19, 2009

AMENDED: DECEMBER 15, 2010 (LL No. 7 OF 2010)
APRIL 20, 2016 (LL No. 2 OF 2016)
OCTOBER 19, 2016 (LL No. 4 OF 2016)

The Zoning Law is also available online at

www.townofamsterdam.org

**TOWN OF AMSTERDAM ZONING LAW
OUTLINE OF THE LAW**

ARTICLE I – TITLE AND PURPOSE	1
SECTION 1. TITLE	1
SECTION 2. PURPOSE	1
ARTICLE II – DEFINITIONS.....	2
SECTION 3. GENERAL	2
SECTION 4. DEFINITIONS.....	2
ARTICLE III – DISTRICTS AND BOUNDARIES.....	20
SECTION 5. ESTABLISHMENT OF DISTRICTS.....	20
SECTION 6. INTERPRETATION OF DISTRICT BOUNDARIES	20
ARTICLE IV – USE REGULATIONS	21
SECTION 7. R-1 RESIDENCE DISTRICT.....	21
SECTION 8. R-2 RESIDENCE DISTRICT.....	22
SECTION 9. R-M MOBILE HOME RESIDENCE DISTRICT	22
SECTION 10. A AGRICULTURE DISTRICT.....	23
SECTION 11. B-1 BUSINESS DISTRICT.....	23
SECTION 12. B-2 RESTRICTED BUSINESS DISTRICT.....	24
SECTION 13. M-1 MANUFACTURING/MIXED USE DISTRICT	25
SECTION 14. PUD – PLANNED UNIT DEVELOPMENT	26
SECTION 15. PWSF – PERSONAL WIRELESS FACILITIES OVERLAY DISTRICT	34
SECTION 16. H – HISTORIC OVERLAY DISTRICT	43
ARTICLE V – AREA AND HEIGHT REGULATIONS.....	44
SECTION 17. REGULATIONS IN SCHEDULE A.....	44
SECTION 18. AREA REGULATIONS	44
SECTION 19. HEIGHT REGULATIONS	46
ARTICLE VI – SITE PLAN REVIEW	47
SECTION 20. SITE PLAN REVIEW	47
ARTICLE VII – SPECIAL PERMITS.....	56
SECTION 21. SPECIAL PERMITS.....	56
ARTICLE VIII – SUPPLEMENTARY REGULATIONS.....	58
SECTION 22. ACCESS TO IMPROVED STREET	58
SECTION 23. LOTS IN TWO DISTRICTS	58
SECTION 24. ACCESSORY BUILDINGS.....	58
SECTION 25. TOWN HOUSES/CONDOMINIUMS/MULTIPLE FAMILY DWELLINGS.....	58
SECTION 26. MOBILE HOMES AND MOBILE HOME PARKS.....	59
SECTION 27. DRIVE-IN FOOD SERVICES	62
SECTION 28. SWIMMING POOLS	62
SECTION 29. HOME OCCUPATIONS.....	65
SECTION 30. DUMPS AND JUNKYARDS.....	66
SECTION 31. SIGNS.....	67
SECTION 32. KENNELS AND STABLES.....	75
SECTION 33. ADULT ENTERTAINMENT ESTABLISHMENTS	79

SECTION 34.	OUTDOOR FURNACES	84
SECTION 35.	SOLAR COLLECTORS AND INSTALLATIONS	84
SECTION 36.	WIND ENERGY FACILITIES	95
ARTICLE IX – OFF-STREET PARKING AND LOADING		113
SECTION 37.	AUTOMOBILE PARKING FACILITIES	113
SECTION 38.	OFF-STREET LOADING	114
ARTICLE X – NON-CONFORMING USES		115
SECTION 39.	CONTINUATION	115
SECTION 40.	NON-CONFORMING USE OF LAND AND BUILDINGS	115
ARTICLE XI – ADMINISTRATION AND ENFORCEMENT		116
SECTION 41.	PLANNING STAFF	116
SECTION 42.	FEE SCHEDULE	116
SECTION 43.	ENFORCEMENT	116
SECTION 44.	ZONING/USE PERMIT	116
SECTION 45.	CERTIFICATE OF OCCUPANCY	117
SECTION 46.	VIOLATIONS AND PENALTIES	118
ARTICLE XII – BOARD OF APPEALS		119
SECTION 47.	CREATION, APPOINTMENT AND ORGANIZATION	119
SECTION 48.	POWERS AND DUTIES	119
SECTION 49.	PROCEDURE	120
ARTICLE XIII – AMENDMENTS		122
SECTION 50.	AMENDMENTS	122
SECTION 51.	REFERRAL OF AMENDMENTS TO TOWN PLANNING BOARD	122
SECTION 52.	HEARING ON PROPOSED AMENDMENT	122
SECTION 53.	ADOPTION OF AMENDMENT	122
SECTION 54.	PROTEST PETITIONS	123
ARTICLE XIV – MISCELLANEOUS		123
SECTION 55.	PERIODIC REVIEW OF ZONING LAW	123
SECTION 56.	VALIDITY AND SEVERABILITY	123
SECTION 57.	INTERPRETATION	123
SECTION 58.	WHEN EFFECTIVE	123
SECTION 59.	REPEALER	123

TABLES

Schedule A	Area and Height Regulations	124
Schedule B	Off-Street Parking	114

MAPS

Town of Amsterdam Zoning Map	126
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APPENDICES

Appendix A	PUD No. 1 - Mt. Loretto Nursing Home
Appendix B	PUD No. 2 - Giardino PUD

ZONING LAW

**TOWN OF AMSTERDAM
MONTGOMERY COUNTY, NEW YORK**

A LOCAL LAW regulating and restricting the location, construction, alteration and use of buildings and land in the Town of Amsterdam, Montgomery County, New York pursuant to the Zoning Provisions of Article 16 of the Town Law of the State of New York.

THE TOWN OF AMSTERDAM TOWN BOARD, by virtue of the power and authority vested in it by law, does hereby ordain and enact as follows:

ARTICLE I –TITLE AND PURPOSE

SECTION 1. TITLE

This law shall be known and may be cited as "THE TOWN OF AMSTERDAM ZONING LAW".

SECTION 2. PURPOSE

This law is enacted for the following purposes:

1. To lessen congestion in the streets;
2. To secure safety from fire, flood, panic and other dangers;
3. To promote health and the general welfare;
4. To provide adequate light and air;
5. To prevent the overcrowding of land;
6. To avoid the undue concentration of population;
7. To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
8. To conserve the value of buildings;
9. To encourage the most appropriate use of land throughout the Town;
10. To avoid the pollution of air, water and land;
11. To encourage development in accord with a comprehensive plan and professional planning techniques.
12. To improve the quality of life throughout the Town.

ARTICLE II – DEFINITIONS

SECTION 3. GENERAL

For the purpose of this law certain terms or words used herein shall be interpreted or defined as follows:

Words used in the present tense shall include the future. The singular number includes the plural, and the plural the singular.

The word "person" includes a firm, partnership, association, corporation, company, institution, or organization of any kind as well as an individual.

The word "Lot" includes the word "plot" or "Parcel".

The word "used" or "occupied" as applied to any land or building shall be construed to include the words "Built; arranged or designed to be used or occupied".

SECTION 4. DEFINITIONS

ACCESSORY BUILDING OR STRUCTURE: A building or structure subordinate to the main building on a lot and used for purposes customarily incidental to those of the main building.

ACCESSORY DWELLING UNIT: A second dwelling unit occupied by a senior citizen family member either in or added to an existing single-family detached dwelling, or in a separate accessory structure on the same lot as the main dwelling, for use as an independent living facility with provision for cooking eating, sanitation, and sleeping. An accessory dwelling unit is permitted in the R-1, R-2 and A-Agriculture Districts by special permit only. A Mobile Home or Manufactured Home shall not be permitted as an accessory dwelling unit.

ACCESSORY USE: A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

ADULT ENTERTAINMENT ESTABLISHMENT: Any establishment or business as defined in Section 33 of this law. Adult uses are allowed as special uses in the M-1 Manufacturing District only. The establishment and maintenance of such uses shall be regulated by Section 33 - Adult Entertainment Establishments.

AIRFIELD, PRIVATE: An area of land or water that is used for the landing and takeoff of aircraft, including aircraft tie-down and or hanger storage, exclusively for pleasure by the owner of the property. Private Airfields require a minimum of 75 acres and must comply with all Federal Aviation Administration regulations. A private airfield is permitted in the A-Agriculture District by special permit only.

AIRPORT: Any area of land which is used for public or commercial purposes for the landing and taking off of aircraft, and any appurtenant areas which are used for airport buildings or taxiways, maintenance facilities or rights-of-way, including all necessary taxiways, aircraft storage and tie-down areas, hangars, and other necessary buildings and open spaces. Airports require a minimum of 100 acres and must comply with all Federal Aviation Administration regulations. An airport is permitted in the A-Agriculture District by special permit only.

ALLEY: A service way which affords a secondary public means of vehicular access to abutting property.

ANTENNA: A device used in communications which converts radio frequency electrical energy to radiated electromagnetic energy and vice versa in a transmitting station, an antenna is the device from which radio waves are emitted.

APPLICANT: the person, persons, corporations, etc. who is the legal owner(s) of the property.

AREA, BUILDING: The total ground area of a principal building and accessory buildings, exclusive of uncovered porches, parapets, steps and terraces.

ASSISTED LIVING FACILITY: A non-medical institution occupied primarily by senior citizens in which room, board, laundry, some forms of personal care, and often recreational services are provided. Assisted living facilities are licensed by the New York State Department of Health. Assisted living facilities exist under several names including independent living facilities, assistive living facilities, domiciliary care facility, care home, community-based care facility, residential care facility, etc. Nursing homes and convalescent homes are not considered assisted living facilities.

AVERAGE FINISHED GRADE: The average elevation at which the finished surface of the surrounding lot intersects the walls or supports of a structure.

BASEMENT: A space of full story height partly below average finished grade and having at least half of its clear floor-to-ceiling height above the average finished grade, and which is not designed or used primarily for year round living accommodations.

BED AND BREAKFAST ESTABLISHMENT: An owner-occupied single dwelling unit in which at least one, but not more than four, sleeping rooms are provided by the owner-occupant as overnight/lodging facilities, with or without meals, for the accommodation of transient guests.

BOARDING OR ROOMING HOUSE: Any dwelling in which more than three persons are housed or lodged for remuneration for more than one week, except those engaged in farm work.

BUILDING: Any roofed structure intended for the shelter, housing or enclosure of persons, animals or property.

BUILDING LINE: A line established by law or by agreement, usually parallel with a property line, beyond which a structure may not extend.

BUILDING, FLOOR AREA: The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, including basement areas devoted to residential, commercial, institutional or industrial use and the area of bays, dormers, roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

BUILDING, HEIGHT OF: Vertical distance measured from average finished grade to the highest level of a flat or mansard roof, or to the average height of a pitched, gabled, hip or gambrel roof, excluding bulkheads, penthouses and similar constructions enclosing equipment or stairs, providing they are less than 12 feet in height and do not occupy more than 30 percent of the area of the roof upon which they are located.

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS: A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or façade and which does not alter the relief of the roof.

CAMPING GROUND: A parcel of land used or intended to be used, let or rented for occupancy by campers or for occupancy by or of trailers, tents or movable or temporary dwellings, rooms or sleeping quarters or any kind of a design or character suitable for seasonal or other more or less temporary living purposes, regardless of whether such structures or other accommodations actually are occupied seasonally or otherwise excluding, however, mobile homes. The term camping ground may also apply to land and buildings used for any assembly of persons for what is commonly known as day camp purposes or summer camp whether or not conducted for profit and whether or not occupied by adults or by children either as individuals, families or groups.

CAR WASH: A structure housing equipment for the purpose of washing vehicles manually or automatically.

CELLAR: That space of a building which has more than half of its height, measured from floor to ceiling, below the average finished grade.

CERTIFICATE OF OCCUPANCY: A written certificate issued by the Zoning/Code Enforcement Officer following an inspection which verifies that the provisions of this law have been met, that the plan, drawings, and specifications submitted with the building permit have been complied with, and that the requirements of the New York State Uniform Fire Prevention and Building Code have been met.

CHILD CARE: A facility that provides a program of care for children away from their home for more than three (3) hours but less than twenty-four (24) hours a day and is operated in accordance with all applicable New York State and federal rules, regulations and laws.

1. **CHILD DAY CARE CENTER:** A NYS licensed program or facility which is not a residence in which child day care is provided on a regular basis to more than six children for more than three hours per day per child for compensation or otherwise, as regulated by New York State Social Services Law.
2. **FAMILY DAY CARE HOME:** A NYS registered program operated in a family home in which child day care is provided on a regular basis to three to six children for more than

three hours per day per child, for compensation or otherwise, as regulated by New York State Social Services Law. (In some cases care may be provided for up to eight children.)

3. **GROUP FAMILY DAY CARE HOME:** A NYS licensed program operated in a family home in which child care is provided on a regular basis for 7 to 12 children for more than three hours per day per child, for compensation or otherwise as regulated by New York State Social Services Law.

CLUSTER DEVELOPMENT: Clustering refers to the efficient utilization of land by concentrating development in higher densities, while preserving large areas as open space. In a cluster development lots are created with less than the minimum lot size and dimension requirements, but have access to common open space that is part of the overall development plan approved by the Planning Board.

CO-LOCATION: The mounting of Personal Wireless Service Facilities used by two or more persons, firms or corporations on the same equipment mounting structure.

COLLECTIVE SOLAR: Solar installations owned collectively through subdivision homeowner associations, college student groups, “adopt-a-solar-panel” programs, or other similar arrangements.

COMMUNITY SEWER SYSTEM: A system utilized for the collection and disposal of sewage, including the various devices for the treatment of such wastes serving more than one lot, whether owned by a municipal corporation or private utility. For the purpose of determining required lot size in Schedule A, a community sewer system shall be considered public sewer.

COMMUNITY WATER SYSTEM: A source of water and necessary appurtenances, together with a distribution system serving more than one lot, whether owned by a municipal corporation or private utility. For the purpose of determining required lot size in Schedule A, a community water system shall be considered public water.

COMPREHENSIVE MASTER PLAN: An advisory policy or document including words, maps and illustrations, than sets forth the community’s objectives, policies and standards to guide and regulate public and private use of land, facilities, housing and transportation for the overall benefit of its residents.

CONDOMINIUM UNITS: Multiple form of housing units in which the individual owns his own unit and a proportionate share of the common elements. Maintenance of the common elements is administered by the Homeowner’s or Condominium Association.

DWELLING, ONE-FAMILY: A detached building, other than a trailer or other temporary structure, designed for exclusive year-round occupancy by one family only.

DWELLING, TWO-FAMILY: A detached building, other than a trailer or other temporary structure, designed for exclusive year-round occupancy by two families living independently of each other.

DWELLING, MULTIPLE FAMILY: A building or group of buildings designed for year-round occupancy by more than two families, including apartment houses and group houses, but excluding hotels and rooming houses.

DWELLING UNIT: One or more rooms with provision for living, sanitary, and sleeping facilities arranged for the use of one family.

EQUIPMENT MOUNTING STRUCTURE: Any structure used primarily to support reception or transmission equipment including, but not limited to, antenna support structures, towers and monopoles.

FAMILY: Any number of persons of recognized family relationship maintaining a common household, including domestic help.

FARM OPERATION: The land and on-farm buildings, equipment, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including commercial horse boarding operations. These agricultural products may include but are not limited to field crops, fruits and vegetables, horticultural specialties, livestock and livestock products, maple sap, honey and beeswax, Christmas trees, and aquaculture products. A farm operation may consist of one or more contiguous or noncontiguous parcels of owned or rented land, and shall be permitted in any Zoning District if said parcels are part of a New York State Certified Agricultural District.

(For the purposes of Section 24.6, a farm operation shall not include any farm having less than \$10,000 gross sales in the year preceding the date on which an owner applies for a building permit to erect a mobile home as an accessory use. In addition, the occupant of a mobile home as an accessory use must be a full-time employee of the “agricultural operation” whose total documented compensation from such employment in agriculture is not less than \$10,000 a year.)

FIREWOOD: Trunks and branches of trees and bushes but does not include leaves, needles, vines or brush smaller than three inches (3”) in diameter.

FLUSH-MOUNTED SOLAR PANEL: Solar collector systems, panels, and tiles that are installed flush to the surface of a roof or wall of a principal and/or an accessory structure and which cannot be angled or raised.

FREESTANDING, OR GROUND-MOUNTED SOLAR ENERGY SYSTEM: A solar energy system that is directly installed on the ground and is not attached or affixed to an existing structure and is used for the direct conversion of solar energy into electricity.

FRONT OR FACE: The outer surface of a building which is visible from any public street or highway.

GARAGE, PRIVATE: A roofed space for the storage of one or more motor vehicles, providing that no business, occupation or service is conducted for profit.

GARAGE, PUBLIC: A building or part thereof used for the storage, hiring, selling, greasing, servicing, or repair (including body or fender work) of motor driven vehicles, operated for gain.

GASOLINE STATION: Any building or part thereof, including the lot on which it is located, used or designed to be used for the retail sale of gasoline or oil or other motor vehicle fuel and which may include facilities for lubricating, hand-washing, cleaning, or otherwise servicing motor vehicles, but not including body or fender work, painting, or major motor repairs. The term "Gasoline Station" shall be deemed to include filling station and service station.

GLARE: The effect produced by light with intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

HOME OCCUPATION: An occupation or profession which is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; and is carried on by a member of the family residing in the dwelling unit; and is clearly incidental and secondary to the use of the dwelling unit for residential purposes; and which does not alter the exterior of the property or affect the residential character of the neighborhood.

HOMEOWNERS' ASSOCIATION: An organization of homeowners residing within a particular development whose major purposed is to preserve, maintain, and provide community area facilities and services for the common enjoyment of the residents.

HORSE: The entire family of Equidae.

HORSE, PLEASURE: A horse kept for riding, driving, or stabling for personal satisfaction, but not for compensation.

HOSPITAL: A building or structure for the diagnosis and medical or surgical care of human sickness or injuries.

HOSPITAL, ANIMAL: A building or structure for the diagnosis and medical or surgical care of sick or injured animals.

HOTEL: A building or group of buildings where transient guests are lodged for remuneration, including motels but excluding rooming houses.

HOUSE TRAILER: see RECREATIONAL VEHICLE

JUNK YARD: A lot, land or structure, or part thereof, used for the collecting, storage and sale of wastepaper, rags, scrap material or discarded material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles, and for the sale of the parts thereof; or for the storing or abandonment of two or more unlicensed, unregistered, old or secondhand motor vehicles no longer intended or in condition for legal use on the public highways. The term "junkyard" shall not be construed to mean an establishment having facilities for processing iron, steel or nonferrous scrap for sale or remelting purposes.

KENNEL: A structure used for the business of raising, harboring or boarding of four or more dogs or cats more than six months old.

LAUNDERETTE: A business premises equipped with individual clothes washing or cleaning machines for use by retail customers, exclusive of laundry facilities provided in an apartment, fraternity, sorority, residential hotel or club.

LIGHT MANUFACTURING: Any use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but excluding basic industrial processing. The operation is conducted solely within a building or group of buildings and will not cause or result in:

- a. Dissemination of noise, vibration, odor, dust, smoke, observable gas or fumes or other atmospheric pollutants beyond the boundaries of the immediate site of the building in which such use is conducted.
- b. Hazard of fire or explosion or other physical hazard to any person, building, or vegetation.
- c. Radiation or interference with radio or television reception beyond the boundaries of the immediate site of the building in which such use is conducted, or scientific testing of instruments which constitute a public nuisance.
- d. A harmful discharge of waste materials.
- e. Unusual traffic hazards or congestion, due to the type of vehicles required.

LOT: A parcel of land considered as a unit, occupied or capable of being occupied by a building or use and accessory buildings or uses, or by a group of buildings united by a common use or interest; and including such open spaces as are required by this local law.

LOT, AREA: The total horizontal area included within lot lines. No part of the area within a public right-of-way may be included in the computation of lot area.

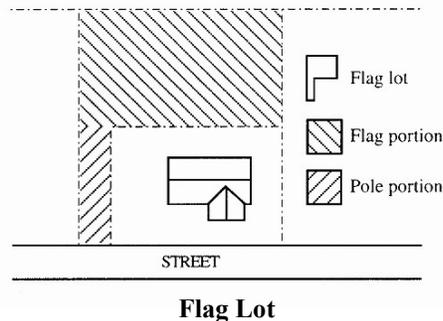
LOT, CORNER: A lot located at the intersection of and fronting on two or more intersecting streets, or two parts of the same street, and having an interior angle at the corner of intersection of less than 135 degrees.

LOT COVERAGE: The percentage of the total lot area covered by the total building area, which is the combined footprint of all buildings and structures, including covered porches and accessory buildings, but exclusive of uncovered porches, parapets, steps and terraces.

LOT DEPTH: The mean horizontal distance between the front and rear lot lines, measured perpendicular to the front lot line at the mid-point of the lot.

LOT, FLAG: A lot with two distinct parts:

- a. The flag, which is the building site and is located behind another lot. The required minimum lot width is measured across this section of the lot.
- b. The pole, which connects the flag to the street, provides the street frontage for the lot and at any point is less than the minimum lot width for the zone. The minimum width of the pole is 20 feet.



LOT, INTERIOR: A lot which has no direct frontage on a public or private street, but which obtains access to such streets by way of a private driveway or access agreement across land owned by another party. The front lot line of an interior lot shall be considered that lot line where the driveway or access point enters the property. The front lot line shall be the line from which the building line and required front yard is established. The rear lot line shall be considered that lot line which runs generally parallel to and does not intersect with the front lot line.

LOT, THROUGH: A lot having frontage on two approximately parallel, or converging streets other than a corner lot.

LOT WIDTH: The distance between side lot lines measured parallel to the front lot line at a distance from the front lot line equal to the front yard specified for the district. Lot width does not necessarily equal road frontage. In the case of a wedge shaped lot on a cul-de-sac the required lot width shall be measured at a point midway between the front and rear lot lines.

MARQUEE OR CANOPY: A rooflike projection, usually over an entranceway, considered to be a roof structure.

MOBILE HOME or MANUFACTURED HOME: A one-family dwelling on a permanent chassis, transportable in one or more sections, which is equipped for year-round occupancy and contains the same plumbing, heating and electrical systems as immobile housing. Any structure which is built on a permanent chassis is defined as a manufactured home under 24 CFR Part 3280 and this local law. A "single-wide" mobile home consists of one self-contained unit. A "double-wide" mobile home consists of two sections which are designed to be joined into one integral unit at the site.

MOBILE HOME PARK OR COURT: A parcel of land which has been planned and improved for the placement of two or more mobile homes for non-transient use.

MODULAR HOME: A structure made of prefabricated sections manufactured at another location, transported to the site, and assembled on a foundation to form a permanent dwelling unit. Modular homes are indistinguishable in appearance from conventionally built homes and are constructed using similar materials and techniques. Modular homes differ from mobile homes in that they are not transportable after installation and do not have a permanent chassis or axle. For the purposes of this local law, modular homes shall be considered to be single-family dwellings.

MOTEL: A building or group of buildings, whether detached or in connected units, used as individual sleeping units designed primarily for transient automobile travelers and providing for accessory parking facilities.

MOTOR VEHICLE: Any vehicle propelled or drawn by power, other than muscular power, originally intended for use on public highways.

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 at the end of the month.

NURSING OR CONVALESCENT HOME: A building used for the accommodation and care of persons with, or recuperating from, illness or incapacity, where nursing services are furnished, or for the accommodation and care of persons of advanced age.

OPEN SPACE: An area characterized by natural scenic beauty or existing openness used for recreation or resource protection. It may include wooded areas, meadows, wetlands, agricultural lands and active and passive recreation areas. Open space shall not include buildings, driveways, parking lots or other surfaces designed or intended for motor vehicular travel.

OUTDOOR FURNACE: Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. An Outdoor Furnace may also be referred to as an Outdoor Wood Boiler or Outdoor Wood Furnace.

OWNER/OPERATOR: Person, persons corporation, etc. that owns and/or operates the business or facility.

PARKING SPACE: The area (open or enclosed) required for parking one automobile which in this law is held to be an area at least nine feet wide and 20 feet long, exclusive of passageways and driveways thereto.

PERSONAL SERVICE SHOP: A shop directly providing services to an individual, such as a barber shop, beauty salon, dressmaker, tailor or tanning salon.

PERSONAL WIRELESS SERVICE: Commercial mobile services, wireless telecommunication services using duly authorized devices which do not require individual licenses (excluding the

provision of direct-to-home satellite services), and common carrier wireless exchanges including cellular radiotelephone, specialized mobile radio system and personal communication services.

PERSONAL WIRELESS SERVICE PROVIDER: An entity licensed by the Federal Communications Commission (FCC) to provide Personal Wireless Service.

PERSONAL WIRELESS SERVICES FACILITY: A facility for the provision of Personal Wireless Services. A Personal Wireless Service Facility includes, but is not limited to, an Antenna Equipment Mounting Structure and accessory buildings and equipment. For the purposes of the Zoning Law, a Personal Wireless Service Facility shall not be included within the definition of a “Public Utility” Station or structure as specified in the Zoning Law, since Personal Wireless Service facilities, although they are facilities operated by public utilities with certain rights under the laws of the United States and the State of New York, are exclusively regulated as such by Section 15 of the Zoning Law.

PHOTOVOLTAIC (PV) SYSTEMS: A solar energy system that produces electricity by the use of the semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

PLANNED UNIT DEVELOPMENT: An area of land under unified control to be planned and developed under a single development operation or a definitely programmed series of development operations; the plan for which may not correspond in lot size, bulk or type of structure, density, lot coverage and required open space to the regulations established in any one district created, from time to time, under the provisions of this Zoning Law. A planned unit development is a type of residential, mixed use, commercial, and/or industrial land development that provides greater planning flexibility than traditional zoning and lot by lot layout. Its purpose is to facilitate more desirable development through the use of creative and imaginative design, and to preserve, adapt and improve existing open space, land uses and neighborhoods, consistent with the recommendations of the Town’s Comprehensive Plan.

PLANNING BOARD: The seven member board, and any alternate members, who are appointed by the Town Board and are responsible for the review and approval of proposed Subdivisions, Site Plans, and Special Use Permits in the Town of Amsterdam.

PROFESSIONAL OFFICE: The use of office related spaces for such professional services as are provided by accountants, attorneys, architects, engineers and similar professionals.

PROPERTY LINE, FRONT: The line separating the property from the boundary of the highway or right-of-way upon which the property abuts.

PROPERTY LINE OF CORNER LOT, FRONT: The line facing the wider of the two streets abutting the lot, unless they are equal, in which event the front property line may be established on either street.

PROPERTY LINE, REAR: The property line opposite to and the most distant from the front property line.

PROPERTY LINE, SIDE: Any property line other than a front or rear property line.

PUBLIC UTILITY STATION OR STRUCTURE: A facility other than a Personal Wireless Service Facility for the provision of public utility services, including facilities constructed, altered or maintained by utility corporations, either public or privately owned, or government agencies, necessary for the provision of electricity, gas, steam, heat, communication, water, sewage, collection of other such services to the general public. Such facilities shall include poles, wires, mains, drains, sewers, pipes, conduits, cables, alarms and call boxes and other similar equipment, but shall not include offices or administration buildings. For purposes of the Zoning Law, Personal Wireless Services Facility, defined separately in the Zoning Law, shall not be governed by the Zoning regulations which apply to the broader definition of Public Utility station or structures but shall be governed by the regulations of the Personal Wireless Services Facilities Overlay District which specifically regulates this category of public utilities.

RECREATIONAL VEHICLE: Any portable or highly mobile vehicle or unit with partial housekeeping facilities used or designed to be used for camping, temporary or recreational living purposes and standing on wheels or rigid supports.

RESEARCH AND DEVELOPMENT FACILITY: A building for experimentation in pure or applied research, design, development and production of prototype machines or devices or of a new product, and uses accessory thereto, excluding biological laboratories.

RESTAURANT: An establishment where food and drink are prepared, served, and consumed, primarily within the principal building.

RETAIL STORE OR SHOP: A commercial activity designed for and primarily characterized by the direct on-premises sale of goods and services to the ultimate consumer, generally involving stock-in-trade such as normally associated with department stores, food markets and similar establishments, but also including financial institutions, business and professional offices and services, including on-premises manufacturing, processing, servicing, preparation and wholesale business transactions customarily associated therewith, but clearly incidental thereto. This term shall not include restaurants, motor vehicle businesses, places of public assembly or medical centers.

ROOFTOP OR BUILDING-MOUNTED SOLAR ENERGY SYSTEM: A solar energy system in which solar panels are mounted on top of a roof of a principal and/or an accessory structure either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

SATELLITE DISH: A communication device that receives a signal from a satellite and transmits digital signals for internet access or a television image.

SENIOR CITIZEN: A person 55 years of age or older, who resides alone, or who may have residing with them, a spouse, a dependent child of either spouse, 21 years of age or younger, or a person engaged in rendering care or treatment to a qualified resident of the senior citizens household, no other persons shall reside with said senior citizen.

SENIOR HOUSING: A structure containing individual residence units in which at least one of the primary occupants shall be a senior citizen (55 years of age or older) who does not require continued medical or nursing care, providing long-term residential accommodations with or without room, board, housekeeping, personal care and supervision.

SEQR (STATE ENVIRONMENTAL QUALITY REVIEW): The implementing regulations of the State Environmental Quality Review Act as set forth under Title 6 of the New York Compilation of Rules and Regulations (6 NYCRR 617) which provide for incorporating environmental review within the decision making of any agency of any governmental unit in the State of New York.

SETBACK: The minimum allowable horizontal distance from a given point or line of reference, such as a street, right-of-way, or future right-of-way if such has been determined, to the nearest vertical wall or other element of a building, structure, or other improvement as defined herein.

SHOPPING CENTER: A grouping of four or more retail business and service uses on a single site with common parking facilities.

SIGN: Any device affixed to or painted or represented directly or indirectly upon a building, structure or land and which directs attention to an object, product, place, activity, person, institution, organization or business, but not including any flag, badge or insignia of any government or government agency, school or religious group, or of any civic, charitable, religious, patriotic, fraternal or similar organization, nor any official traffic control device. Each display surface shall be considered to be a "sign".

SIGN, ADVERTISING: A billboard or other outdoor advertising structure on which is portrayed information, and which directs attention to a business, commodity, service or entertainment sold or offered elsewhere than upon the premises where such sign is located, or to which it is affixed; and only incidentally on the premises if at all.

SIGN, BUSINESS: A sign which directs attention to a business or profession conducted, or a commodity, service, or entertainment sold or offered upon the premises where the sign is located, or to which it is affixed. A "For Sale" or "To Let" sign relating to the lot on which it is displayed shall be deemed to be a business sign.

SIGN, DOUBLE-FACED: A sign designed to be viewed from two directions, which at no point is thicker than twenty-four (24) inches measured from the exterior surface of each face, and the two (2) faces of the sign are either parallel or the angle between them is thirty (30) degrees or less.

SIGN, FLASHING: A "flashing sign" is any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color when such sign is in use. For the purpose of this law any revolving, illuminated sign shall be considered a "flashing sign".

SIGN, FREE-STANDING: A sign not attached to any building, but permanently affixed by any means in or upon the ground.

SIGN, ILLUMINATED: Any sign illuminated by electricity, gas or any other artificial lighting.

SIGN, LIGHTING DEVICE: Any light, string of lights, or group of lights located or arranged so as to cause illumination of a sign.

SIGN, PLANTER-TYPE: A monolithic structure starting at grade level.

SIGN, PORTABLE: A sign that is designed to be movable and is not structurally attached to the ground, building, structure or any other sign.

SIGN, PROJECTING: A sign which is attached to the building wall, extends more than fifteen (15) inches from the face of such wall, and is perpendicular to the face of such wall.

SIGN, STANDARD OUTDOOR ADVERTISING PANELS OR BILLBOARDS: An advertising panel structure measuring approximately 25' horizontally and 12' vertically used for the posting or painting of advertising or public service copy.

SIGN, ROOF: A sign erected upon a roof or parapet of a building or structure.

SIGN, STRUCTURE: The supports, uprights, bracing, and framework for the sign. In the case of a sign structure consisting of two (2) or more sides where the angle formed between any of the sides or the projections thereof exceeds thirty (30) degrees, each side shall be considered a separate sign structure.

SIGN SURFACE OR AREA: The entire area within a single, continuous perimeter enclosing all elements of the sign which form an integral part of the display. The structure supporting a sign shall not be included, unless the structure is designed in such a way to form an integral background for the display; only the faces of a double-faced sign shall be included as the surface or area of such a sign.

SIGN, WALL: A sign which is attached to the wall of a building, with the face in the plane parallel to such wall, not extending more than fifteen (15) inches from the face of such wall.

SIGN, WINDOW: A sign maintained in or painted upon a window, or which is inside a structure but not in or on a window, but visible from a parking lot or roadway.

SITE PLAN: A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land.

SOLAR ACCESS: Space open to the sun and clear of overhangs or shade including the orientation of streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

SOLAR ARRAY: A group of multiple solar panels or modules with the purpose of harvesting solar energy.

SOLAR COLLECTOR: A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR ENERGY EQUIPMENT AND SYSTEMS: Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and or other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed. Solar systems include solar-thermal, photovoltaic and concentrated solar.

SMALL-SCALE SOLAR ENERGY SYSTEM: A solar energy system that is designed and/or built primarily to provide power for use by the owners, lessees, tenants, residents, or other occupants of the premises on which they are erected, including “collective solar” installations. A small-scale solar energy system may sell excess power through a “net-metering” arrangement in accordance with New York Public Service Law 66-j or similar state or federal law or regulation.

UTILITY-SCALE SOLAR ENERGY SYSTEM: A solar energy system that is designed and/or built to provide energy as an ongoing commercial enterprise, or for commercial profit, or designed to distribute energy generated to a transmission system for distribution to customers rather than for use on the site. A utility-scale solar energy system may include solar energy system equipment and uses, such as but not limited to supporting posts and frames, buildings and/or other structure(s), access drives, inverter equipment, wires, cables and other equipment for the purpose of supplying electrical energy produced from solar technologies, whether such use is a principal use, a part of the principal use or an accessory use or structure.

SOLAR INSTALLER, QUALIFIED: A person who is on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or is certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP). Persons who are not on either NYSEERDA's or NABCEP's list may be deemed to be qualified solar installers if the Town determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

SOLAR PANEL: A device for the direct conversion of solar energy into electricity.

SOLAR STORAGE BATTERY: A devise 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.

SPECIAL PERMIT: An authorization of a particular land use which is permitted in this Zoning Law subject to special review and conditions imposed by the Planning Board, to assure that the use is in harmony with this law and will not adversely affect the surrounding neighborhood.

STABLE, PRIVATE: Any accessory building in which horses are kept for private use and not for hire, remuneration or sale.

STABLE, PUBLIC: A principal or accessory building in which horses are kept for remuneration, hire or sale. A public stable may also be called a commercial horse boarding operation.

STORAGE FACILITY: Any object constructed, installed, or placed on the ground and intended for the shelter, housing or storage of property of any type. Any vehicle propelled or drawn (ex: car, truck, bus, trailer, motor home, camper, place, etc.), and any appliance type object (ex: refrigerator, freezer, walk in units, etc.), shall not be included in the definition of a storage facility.

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 be no floor above it, than -the space between any floor and the ceiling next above it.

STORY, HALF: That part of a building between a pitched roof and the uppermost full story, and having a floor area at least half as large as the floor below. Space with less than five feet clear headroom shall not be considered as floor area.

STREET: A public or private way which affords the principal means of access to abutting property, whether designed as a street, avenue, highway, road, boulevard, lane, throughway or however otherwise designed, but does not include driveways to buildings. A street may or may not include accommodations for pedestrians and bicyclists.

STRUCTURE: Anything constructed or erected the use of which requires location on the ground or attachment to something having location on the ground.

STRUCTURAL ALTERATION: Any change in the supporting members of a building.

SWIMMING POOL: Any structure intended for swimming, recreational bathing or wading which contains or which is designed to contain water over 24 inches deep. This includes in-ground, above-ground and on-ground pools, indoor pools, hot tubs; spas; and fixed-in-place wading pools.

THEATRE, OUTDOOR: An open lot or part thereof, with its appurtenant structures and facilities, devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis.

TOURIST HOME: See BED AND BREAKFAST ESTABLISHMENT

TOWN: The Town of Amsterdam, County of Montgomery, State of New York, as incorporated in 1793.

TOWN ATTORNEY: The duly appointed and authorized attorney for the Town.

TOWN BOARD: The legally constituted Town Board of the Town of Amsterdam.

TOWN ENGINEER: The professional engineer retained as Engineer for the Town, or his authorized deputy, agent, or representative.

TOWN HOUSE: A building containing two or more dwelling units, each of which has primary ground floor access to the outside and which are attached to each other by common walls without openings. A stand-alone townhouse is considered a “two-family” dwelling, providing there are no more than two dwelling units within the structure. Two or more townhouse structures per lot, or any townhouse containing three or more dwelling units is considered a multi-family use.

TRAILER: See RECREATIONAL VEHICLE

TRAILER CAMP: Same as CAMPING GROUND

TRAVEL TRAILER: See RECREATIONAL VEHICLE

UNTREATED LUMBER: Dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.

USE: The specific purpose, for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

USE, NON-CONFORMING: A use, building or structure which lawfully existed prior to the adoption, revision, or amendment of this code but fails to conform to the present use, setback, height, yard or other regulation or requirements of the district in which it is located. A non-conforming use is commonly called a “grandfathered” use.

USE, PERMITTED: A specific principal use of a building, structure, lot or land, or part thereof, which the code permits in a particular district as of right.

USE, PRINCIPAL: The main or primary purpose of which a building, structure and/or lot is designed, arranged or intended, or for which they may be used, occupied or maintained under this code. The use of any other building, other structure and/or land on the same lot and incidental or supplementary thereto and permitted under this code shall be considered an accessory use.

USE, PROHIBITED: Within a district, a use that is not listed as a permitted or special permit use is a prohibited use. In addition, uses that are detrimental to the natural environment are specifically prohibited within the Town, including landfills, open mining, strip mining, open composting, salvage or junkyards, debris dumping, and open petroleum or chemical tank farms.

USE, SPECIAL PERMIT: An allowed use in a district, which because of its unique characteristics requires individual consideration and regulation by the Planning Board before a special use permit is issued.

VARIANCE, AREA: An authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

VARIANCE, USE: The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

WAREHOUSE: A building used for the storage, wholesale and distribution of manufactured products, supplies and equipment, but excluding the bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.

WIND ENERGY CONVERSION SYSTEM: A mechanism that converts the kinetic energy of the wind into usable mechanical or electrical energy.

WIND ENERGY FACILITY (WEF): Any Wind Turbine or Wind Measurement Tower or any combinations of these, including all related infrastructure, electrical lines and substations, access roads and accessory structures.

1. SMALL WEF: A Wind Energy Facility that is primarily intended to reduce consumption of utility power on the site.
2. LARGE WEF: A Wind Energy Facility that is primarily intended to produce power for distribution on the public utility grid.

WIND ENERGY FACILITY (WEF) SITE: The parcel(s) of land where the Wind Energy Facility is to be placed. The WEF Site could be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties. Where multiple lots are included in the Site, the combined lots shall be considered as one for purposes of applying property line setback requirements.

WIND MEASUREMENT TOWER: A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction.

WIND TURBINE: A Wind Energy Conversion System together with a mounting tower and associated control or conversion electronics.

WIND TURBINE TOTAL HEIGHT: The height of the tower and the furthest vertical extension of the wind turbine rotor plane.

YARD, FRONT: An open, unoccupied space on the same lot with a main building extending the full width of the lot parallel to the front street line and situated between the street line and the front line of the main building projected to the side lines of the lot.

YARD, REAR: A space on the same lot with a main building, open and unoccupied except for accessory buildings, extending the full width of the lot and situated between the rear line of the main building projected to the side lines of the lot and the rear line of the lot.

YARD, SIDE: An open unoccupied space on the same lot with a main building situated between the side line of the main building and the adjacent side line of the lot and extending from the front yard to the rear yard.

ZONING BOARD OF APPEALS (ZBA): The five member board, and any alternate members, who are appointed by the Town Board and upon appeal to a determination of the Zoning/Code Enforcement Officer, are responsible for issuing interpretations of and variances to this local law.

ZONING/CODE ENFORCEMENT OFFICER: The appointed official(s) authorized to enforce the Zoning Law and/or Codes of the Town of Amsterdam and all duly authorized assistant(s).

ZONING DISTRICT: A portion of the territory of the Town within which certain uniform zoning regulations and requirements, or various combination thereof, apply under the passing of this Local Law.

ARTICLE III – DISTRICTS AND BOUNDARIES

SECTION 5. ESTABLISHMENT OF DISTRICTS

For the purpose of this law, the Town of Amsterdam is divided into the following types or classes of districts:

R-1	Residence
R-2	Residence
R-M	Mobile Home Residential
A	Agricultural
B-1	Business
B-2	Restricted Business
M-1	Manufacturing/Mixed Use
PUD	Planned Unit Development
PWSF	Personal Wireless Service Facilities Overlay District
H	Historic Overlay District

Said districts are bounded and defined as shown on a map entitled "Zoning Map of the Town of Amsterdam," hereinafter called the Zoning Map, adopted by the Town Board and certified by the Town Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this law. Said districts are bounded and defined as shown on a map entitled "Zoning Map of the Town of Amsterdam," hereinafter called the Zoning Map, adopted by the Town Board and certified by the Town Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this law.

SECTION 6. 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:

1. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines such center lines, street lines or highway right-of-way lines shall be construed to be such boundaries.
2. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
3. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of said railroad line.
4. Where the boundary of a district follows a stream, or other body of water, said boundary line shall be deemed to be the center line of such stream or body of water unless otherwise indicated.
5. Where the district boundary lines are indicated to be approximately parallel to a street or highway they will be considered to be two hundred (200) feet from the nearest street of

highway line and parallel to it, or along the back line of properties of record fronting on said street or highway which ever line is closer to the street at the time this law becomes effective, unless otherwise noted.

6. In other circumstances not covered by the rules above, the Zoning Board of Appeals shall interpret the district boundaries.

ARTICLE IV – USE REGULATIONS

There shall be only one primary or Principal Use permitted on each lot or parcel, together with customary accessory uses, except for designated mixed uses and multiple retail uses in districts where such uses and structures are permitted.

SECTION 7. R-1 RESIDENCE DISTRICT

In the R-1 Residence District no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:

Uses Permitted:

1. One-family dwelling except mobile home unless farm (see No. 8)
2. Church, parish house, convent
3. Community park or playground
4. Public building, library
5. Existing farm, nursery or truck garden
6. Customary home occupation
7. Customary accessory use or building
8. Mobile home as part of farm operation as accessory use only
9. Family or Group Family Day Care Home as accessory use
10. Outdoor Furnace as accessory use (See Section 34)
11. Small-Scale Solar Energy System as accessory use (See Section 35 for thresholds)

Uses permitted by the Planning Board as Special Permit Uses:

1. Public utility station or structure
2. Nursing home, Hospital, Assisted Living Facility, Senior Housing
3. Accessory Dwelling Unit (not mobile home)
4. Golf Course or Country Club
5. Public or private school, college
6. Bed and Breakfast Establishment
7. Pleasure Horses (See Section 32B - Equine Zoning Regulations)
8. Kennels (with appropriate acreage)
9. Wind Measurement Tower, Small Wind Energy Facility
10. Small-Scale Solar Energy System as accessory use (See Section 35 for thresholds)
11. Utility-Scale Solar Energy System (See Section 35)

SECTION 8. R-2 RESIDENCE DISTRICT

In the R-2 Residence District no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:

Uses Permitted:

1. R-1 Uses
2. Two-family dwelling
3. Multiple-family dwelling
4. Townhouses, Condominiums

Uses permitted by the Planning Board as Special Permit Uses:

1. Accessory Dwelling Unit (not mobile home)
2. Public utility station or structure
3. Nursing home, Hospital, Assisted Living Facility, Senior Housing
4. Funeral Home
5. Golf Course or Country Club
6. Public or private school, college
7. Bed and Breakfast Establishment
8. Pleasure Horses (See Section 32B - Equine Zoning Regulations)
9. Small-Scale Solar Energy System as accessory use (See Section 35 for thresholds)
10. Utility-Scale Solar Energy System (See Section 35)

NOTE: See Section 25 for supplementary regulations covering multiple-family dwellings.

SECTION 9. R-M MOBILE HOME RESIDENCE DISTRICT

In the R-M Residence District no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:

Uses Permitted:

1. One family dwelling
2. Two-family dwelling
3. Mobile Home
4. Mobile Home Park
5. Customary accessory use or building
6. Community Park or playground
7. Farm operation, nursery or truck garden
8. Small-Scale Solar Energy System as accessory use (See Section 35 for thresholds)

Uses permitted by the Planning Board as Special Permit Uses:

1. Public utility station or structure
2. Small-Scale Solar Energy System as accessory use (See Section 35 for thresholds)
3. Utility-Scale Solar Energy System (See Section 35)

Note: See Section 26 for supplementary regulations on Mobile Homes and Mobile Home Parks.

SECTION 10. A AGRICULTURE DISTRICT

In the A-Agriculture District no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:

Uses Permitted:

1. R-1 Uses and R-2 Uses
2. Farm, nursery or truck garden
3. Boarding or rooming house
4. Picnic grove, fish or game club
5. Public utility station or structure
6. Customary agricultural operation
7. Customary accessory use or building
8. Public Stables
9. Bed and Breakfast Establishment

Uses permitted by the Planning Board as Special Permit Uses:

1. Airport
2. Camping grounds
3. Kennels
4. Accessory Dwelling Unit (not mobile home)
5. Animal/Veterinary Hospital
6. Funeral Home
7. Golf Course or Country Club
8. Hospital, Nursing Home, Assisted Living Facility, Senior Housing
9. Public or private school
10. Self-Storage Units
11. Private Airfield
12. Wind Measurement Tower, Small or Large Wind Energy Facility
13. Utility-Scale Solar Energy System (See Section 35)

SECTION 11. B-1 BUSINESS DISTRICT

In the B-1 Business District no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:

Uses Permitted:

1. Existing dwellings
2. Retail store or shop
3. Personal service shop
4. Launderette or Dry Cleaning Plant
5. Bank
6. Restaurant
7. Motel, hotel
8. Bowling alley
9. Funeral home

10. Public Utility substation or structure
11. Automobile, boat, farm implement, mobile home or trailer sales rental for off premises use only.
12. Fuel, feed, lumber, seed, fertilizer, construction or building materials sales or storage
13. Cabinet, electrical, heating, plumbing or air conditioning shop
14. Gasoline station, public garage
15. Veterinary, animal hospital, kennels
16. Wholesale Business
17. Professional office
18. Shopping Center
19. Child Day Care Center
20. Small-Scale Solar Energy System as accessory use (See Section 35)

Uses permitted by the Planning Board as Special Permit Uses:

1. Dwelling Unit other than mobile home as accessory use to a business
2. Car Wash
3. Warehouse
4. Self Storage Units
5. Light Manufacturing
6. Nursing home, Hospital, Assisted Living Facility, Senior Housing
7. Utility-Scale Solar Energy System (See Section 35)

SECTION 12. B-2 RESTRICTED BUSINESS DISTRICT

In the B-2 Restricted Business District no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:

There shall be no more than three business uses in each separate structure and business structures shall not exceed 5,000 square feet of ground area per structure.

Uses Permitted:

1. Retail store or shop
2. Personal service shop
3. Professional offices
4. Bank
5. Funeral home
6. One-family dwelling except mobile home
7. Two-family dwelling
8. Multiple-family dwelling
9. Customary Home Occupation
10. Customary accessory use or building
11. Restaurant
12. Community Park or playground
13. Townhouses, Condominiums
14. Bed & Breakfast Establishment
15. Family or Group Family Day Care Home as accessory use

16. Child Day Care Center
17. Public Building
18. Small-Scale Solar Energy System as accessory use (See Section 35)

Uses permitted by the Planning Board as Special Permit Uses:

1. Dwelling Unit as accessory to business
2. Hospital, Nursing Home, Assisted Living Facility, Senior Housing
3. Public Utility Station or structure
4. Self Storage Units
5. Utility-Scale Solar Energy System (See Section 35)

SECTION 13. M-I MANUFACTURING/MIXED USE DISTRICT

In the M-I Manufacturing/Mixed Use District no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:

Uses Permitted:

1. B-1 Business Uses
2. Tool, die, pattern or machine shop
3. Manufacture or processing of food products, except slaughter house
4. Manufacture of paper products
5. Manufacture or assembly of electrical or electronic devices or instruments
6. Printing or publishing plant
7. Cold-storage plant
8. Accessory uses
9. Public Utility Station or structure
10. Research and Development Center
11. Warehouse/Distribution Center
12. Transportation services, auto/truck rental
13. Self Storage Units

Uses permitted by the Planning Board as Special Permit Uses:

1. Manufacture of textile or leather goods
2. Manufacture or fabrication of metal, concrete, stone, plastic, paint, fiber or wood products
3. Adult Entertainment Establishments
4. Utility-Scale Solar Energy System (See Section 35)

SECTION 14. PUD – PLANNED UNIT DEVELOPMENT

1. Purpose:

The purpose of the Planned Unit Development (PUD) District is to promote more creative and innovative design of mid-to-large scale developments than is permissible under traditional zoning regulations, while promoting conservation of open space and efficient use of land, resources, public services and infrastructure, consistent with the goals and objectives of the Comprehensive Plan.

4. Objectives:

In order to realize the purpose of this section, a Planned Unit Development shall achieve the following objectives:

- A. Innovation in land use variety and design, in the layout and types of new structures and in their integration with existing structures;
- B. Increased efficiency in the use of land, energy, community services, transportation and utility networks;
- C. Preservation of natural resources, trees, natural topographic and ecological features;
- D. More usable open space and recreation areas;
- E. Provision of a variety of housing opportunities and improved residential environments and/or enhanced business and employment opportunities;
- F. A development pattern in harmony with the existing community and the goals and objectives of the Comprehensive Plan.

3. General Requirements

- A. **Permitted Uses.** Uses within an area designated as a Planned Unit Development District are to be determined by the provisions of this section as well as the conditions of the approval of each Planned Unit Development project.
 - 1. Mixed-use planned developments shall include a variety of residential, commercial, business and recreational uses. Housing types may include single family homes, duplexes, townhouses, condominiums and apartments. Commercial uses may include retail and service establishments that complement the other PUD uses, high technology, assembly, professional offices and commercial recreation.
 - 2. Commercial planned developments shall include commercial and business uses of a variety of types, such as research and development facilities, high technology

assembly, professional offices, commercial recreation facilities, and retail and service establishments that complement the other commercial uses.

3. Senior citizen planned developments may incorporate a variety of housing types and may provide a continuum of care from independent living to continuing care communities. Occupancy shall be limited to senior citizens and their spouses.

B. **Minimum Area.** The minimum area for a planned unit development zone designation shall be no less than 20 contiguous acres of land.

C. **Setbacks.** A minimum 50' setback must be provided from the outer boundaries of the planned unit development to any structure. The Town Board may determine that a larger setback is required.

D. **Ownership.** The tract of land under application for consideration as a planned unit development may be owned, leased or controlled either by a single person or corporation or by a group of individuals or corporations. An application must be filed by the owner or jointly by the owners or their agent(s) of all property included in the project. In the case of multiple ownership the approved plan shall be binding upon all property owners, and such owners shall provide written certification of such binding agreements.

E. **Location.** The planned unit development may be applicable to any area of the Town where the applicant can demonstrate the characteristics of the area will meet the purpose and objectives of this section.

F. **Density.** Because land is used more efficiently in a planned unit development, improved environmental quality can be produced with greater density than is usually permitted in traditional zoning districts. The Town Board shall determine in each case the appropriate land use intensity and/or dwelling unit density for individual projects. The determination of land use intensity or dwelling unit density shall be thoroughly documented, including all facts, opinions and judgments justifying the selection.

G. **Open Space Requirements**

1. Common open space totaling not less than 30% of the total Planned Unit Development District shall be provided in perpetuity. Of this amount, at least half shall be useable space for active or passive community recreation. The entire tract shall be considered in determining the required amount of open space.
2. The following facilities or improvements may be located on open space land: stormwater systems, common septic and water systems, bike paths, walking trails and other common community recreation facilities which do not involve buildings, such as tennis courts, swimming pools and playgrounds. Parking areas, roads, and other impervious surfaces, shall not be included in the open space calculation.

3. The proposed development design shall strictly minimize disturbance of environmentally sensitive areas.
5. A recreation fee in lieu of land may be imposed to accommodate the foreseeable recreational needs of the residents of the proposed development, should the Planning Board determine that the open space lands set aside will not provide adequately for their recreational needs.
6. The preferred way of protecting open space is for the applicant to provide deed covenants and restrictions acceptable to the Town Attorney. Conservation easements will also be considered if transferred to a conservation organization or a homeowners' association. However, regardless of how open space is permanently preserved, it is required that the Town be granted third party enforcement rights to enforce the terms of all restrictions, easements or other legally binding instruments providing for open space. Such provisions shall include that the Town shall be entitled to reimbursement for all costs, expenses and attorneys' fees incurred in connection with such enforcement, to be collected from the party against whom enforcement is sought.
7. Unless otherwise agreed to by the Town Board, the cost and responsibility for maintaining common open space and facilities shall be borne by the homeowners' association, conservation organization or private owner(s). The Town Board shall have the authority to require a bond or other security measure to ensure proper maintenance of open space and facilities located on the PUD parcel.

H. **Building Design Standards.** All buildings shall be an integral part of the layout and design of the entire development. Individual buildings shall generally be related to each other in design, massing, materials, placement, and connections so as to create a visually and physically integrated development.

I. **Landscaping Design Standards.** The development shall have a coordinated landscape design for the entire site. Wherever possible, existing trees shall be conserved and integrated into the overall landscape design. Landscaping shall include shrubs, ground cover and street trees. Street trees shall be provided along all streets and pedestrian walkways. Parking lots shall be landscaped and screened.

J. **Circulation Design Standards.** Roads, pedestrian walkways and/or sidewalks shall be designed as an integral part of the overall site design and shall be connected to the sidewalk network if it exists.

4. Procedure:

Planned Unit Development provides a flexible mechanism by which different land uses within an area are planned, reviewed and developed as a unit. The formation of a PUD district is a change in zone and is to be accomplished by the Town Board through legislative action as provided in this Local Law and under State law. The procedure for obtaining a change in zoning district to a Planned Unit Development District shall be as follows:

A. Application. The owner of the land (or agent thereof) shall apply in writing to the Town Board for a change in zoning district to a Planned Unit Development District. At a minimum, the application for creation of a PUD District shall include:

1. A Project Narrative that includes an analysis of how the proposed development meets the purpose and objectives of a Planned Unit Development District as described in this section. The project narrative must also address the potential impacts of the project on adjacent properties, the immediate neighborhood and the Town in general (traffic generation, aesthetics, property values, population, schools, community services, utilities, etc.)
2. A Preliminary Development Plan that shows:
 - a. Survey showing existing features of the property, including contours at five foot (5') intervals, buildings, structures, trees larger than six inch (6") DBH (diameter at breast height), groves or groupings of trees or shrubs, street utilities, rights-of-way and land use.
 - b. Vicinity map showing property lines and land use and ownership within one thousand (1,000) feet of the site, drawn to a scale of one inch equals five hundred (500) feet or larger.
 - c. Proposed site plan showing building locations, land use, open space, traffic circulation, parking, pedestrian walks, landscaping and utilities.
 - d. Proposed construction sequence for buildings, parking, utilities and landscaping.
 - e. Preliminary architectural drawings for buildings, elevations, and summary of building type, floor area, number of stories and material.
 - f. Preliminary engineering plans, including street improvements, drainage systems and utilities.
3. Supplementary documentation including:
 - a. A site analysis diagram to include such information as soils analysis; location of significant vegetation, water bodies and wetlands; desirable and objectionable views and vistas; sources of noise, odors and other objectionable emissions; existing buildings and structures; existing rights-of-way and easements; and location of existing utilities and infrastructure.
 - b. Analysis of other building projects under construction or planned within the project area, and their effect on the proposed project.
 - c. A circulation and traffic analysis to include trip generation analysis, internal circulation, ingress and egress points, sight distance and traffic control measures,

existing and planned parking, availability of public transportation, impact on level of service of existing highways and proposed on-site and off-site improvements.

- d. If the development is to be staged, a clear plan of how the staging is to proceed. In any case, the preliminary development plan shall show the complete project.
 - e. Evidence demonstrating the competence of the applicant to carry out the plan, both physically and financially.
4. A completed Full Environmental Assessment Form, Part 1 and adequate supplemental information for a SEQR determination to be made.

B. Town Board Review. The Town Board will review the application, and shall forward the application, preliminary development plan, supplementary information and environmental assessment form to the Town Planning Board for review and recommendation.

C. Planning Board Review. The Planning Board shall review the application with the owner to determine if it meets the purpose and objectives of a Planned Unit Development and the standards of this chapter. The Planning Board may require changes to the preliminary development plan that are deemed reasonably necessary to protect the established or permitted uses in the vicinity and to promote the orderly growth and sound development of the Town. The Planning Board shall consider the following in its review of the proposed Planned Unit Development:

1. If the proposal conforms to the goals and objectives of the Town's Comprehensive Plan.
2. If the proposed development meets the purpose and objectives of a Planned Unit Development as described in this section.
3. The need for the proposed land use in the proposed location.
4. The existing character of the neighborhood in which the uses will be located.
5. The pedestrian circulation and open space in relation to structures.
6. The traffic circulation features within the site and the amount, location and access to automobile parking areas; and the impact of the proposal on existing transportation systems.
7. The adequacy of the proposed public/private utilities, including water supply, sewage treatment and stormwater drainage facilities.
8. The height and bulk of buildings and their relation to other structures in the vicinity.

9. The proposed location, type and size of display signs, driveways and/or loading zones and landscaping.
10. The adequacy of existing public services to support the proposed development.
11. The safeguards provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general
12. Such other matters as the Planning Board may consider pertinent.

D. Planning Board Findings. Upon completion of its review the Planning Board shall prepare and submit a report to the Town Board, recommending either adoption, adoption with modification, or rejection of the requested rezoning and stating the reasons for such recommendation. The Planning Board may recommend adoption of a Planned Unit Development District provided that:

1. The uses proposed are compatible with surrounding uses, and will have a beneficial effect on the community, which could not be achieved under another zoning district.
2. The proposed zoning change is in conformance with the purpose and objectives of a Planned Unit Development, and with the general intent of this Zoning Law and the Comprehensive Plan.
3. Existing and proposed streets are suitable and adequate to carry anticipated traffic within, and in the vicinity of the proposed development.
4. Existing and proposed utilities are adequate for the proposed development.
5. Each phase of the proposed development, as it is intended to be built, contains the required utilities, parking, open space, recreational facilities and landscaping necessary for creating and sustaining a desirable and stable environment.

E. County Planning Board Review. In accordance with §239-M of General Municipal Law, the Town Board shall forward a full statement of the proposed zoning amendment for the Planned Unit Development District to the County Planning Board for review if required. The full statement shall include the Application, Preliminary Development Plan, Full Environmental Assessment Form, and all supplementary documentation.

F. Public Hearing. Following receipt and review of the Planning Board report and recommendations, the Town Board shall conduct a public hearing on the proposed zoning amendment for the Planned Unit Development. Notice of public hearing shall be published in a newspaper of general circulation at least ten (10) calendar days in advance of the hearing. The proposed zoning amendment and preliminary plan should be made available for public review at the office of the Town Clerk. In addition, the applicant shall be required to mail notice of the public hearing to all landowners whose property is located within five hundred (500) feet of the Planned Unit Development at least two (2)

weeks prior to the date of said hearing. Notification shall be made by regular U.S. Mail, and proof of such mailing shall be present to the Board at the public hearing.

G. Town Board Action. Upon completion of the SEQR process, the Town Board shall act to adopt, adopt with modifications or reject the requested zoning amendment. If the County Planning Board's recommendation is to disapprove the proposal or for substantial modification thereof, the Town Board shall not act contrary to such recommendation, except by vote of a super-majority of the members thereof, and after adoption of a resolution fully setting forth the reason for such contrary action.

H. Zoning Map Amendment. If the Town Board approves the Planned Unit Development District, the Zoning Map shall be so notated. The Town Board may attach to its zoning approval any additional conditions or requirements it feels are necessary to fully protect the public health, safety and welfare of the community. Such conditions and requirements may include but are not limited to density and intensity of land use, mixture of land uses, visual and acoustical screening, schedule of construction and occupancy, pedestrian and vehicular circulation systems, parking and snow removal, recreation and open space, protection of natural and/or historical features.

I. Site Plan Approval. The law adopted by the Town Board will specify the owner's obligation to secure site plan and/or subdivision approval from the Planning Board. Within six (6) months of the Town Board approval of the Zoning Map amendment and Preliminary Development Plan, the applicant shall file for Site Plan Review in accordance with the procedures of Article VI of this Zoning Law. The Planning Board shall examine the site plans for substantial compliance with the Preliminary Development Plan and any conditions or modifications requested by the Town Board. The Planning Board may approve, deny, or approve with conditions the Site Plan Application.

J. Changes in Site Plans following Zoning Map Amendment.

1. Minor changes. Inconsequential changes in location, siting, and height of buildings and structures may be authorized by the Planning Board if required by engineering or other unforeseen circumstances.
2. Other changes. Any amendments to the use of property, any rearrangement of lots, blocks and building tracts, any changes in common open spaces and all other changes to the Preliminary Development Plan must be approved by the Town Board and Planning Board.

K. Timely Commencement of Project. If after two (2) years from the date of approval of a Planned Unit Development District site work and construction has not begun, the approval given under the terms of this article is revoked and the land returned to the classification which it held prior to any action consummated pursuant to the provisions of this article. However, the applicant may, for valid reasons, request an extension of time from the Town Board.

- L. Phased Construction of Planned Development.** The applicant may phase construction of the planned development over a period of up to five years. The plan must be specific with regard to phasing and timetable. Further, the construction and provisions of all the common open spaces and public and recreation facilities, which are shown on the final site plan, must proceed at the same rate as the construction of dwelling units. The Zoning/Code Enforcement Officer shall examine the rate of construction and may revoke the building permit and recommend to the Town Board revocation of the Planned Development Amendment, if he finds that the rate of construction of dwelling units is greater than the rate at which common open space has been provided.
- M. Fees.** The applicant shall reimburse the Town for all engineering, legal and other professional fees incurred in review of the development project. The Town Board shall require payment by the applicant of an amount equal to the estimated cost of such professional fees to be held in escrow by the Town, which estimated cost shall be paid prior to the Town incurring any professional costs. At the conclusion of the review, any excess funds in the escrow account will be promptly refunded to the applicant.

SECTION 15. PWSF – PERSONAL WIRELESS FACILITIES OVERLAY DISTRICT

A. Purpose and Intent:

The purpose of the Personal Wireless Service Facilities Overlay District is to accommodate the need for telecommunication facilities in appropriate areas of the Town of Amsterdam, while protecting the public against any adverse impacts to aesthetic resources or the public safety and welfare. The intent of this section is to:

1. Preserve and enhance the positive aesthetic qualities of the natural and built environment in the Town of Amsterdam;
2. Accommodate the need for Personal Wireless Service Facilities while regulating their location and number in the community;
3. Avoid potential damage to adjacent properties and structures from tower failure or falling ice through proper engineering and site planning;
4. Minimize adverse visual impacts of these facilities through careful design, siting and screening, and by encouraging attachment to existing tall structures and stealth design techniques.
5. Minimize the total number of Personal Wireless Service Facilities by strongly encouraging co-location on existing and future facilities.

This section is not intended to prohibit or have the effect of prohibiting the provision of personal wireless services nor shall it be used to unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations.

B. Overlay District Description:

All new Personal Wireless Service Facilities, and all additions and/or modifications to currently existing Personal Wireless Service Facilities, shall be allowed only in the Personal Wireless Service Facilities Overlay District. The Personal Wireless Service Facilities Overlay District shall apply to all property within the following zoning districts: B-1 Business, B-2 Restricted Business, M-1 Manufacturing and A Agriculture. The Personal Wireless Services Facilities Overlay District shall also include all parcels on which an existing PWSF or other communications tower is located, and all parcels, easements or right-of-ways used by governmental agencies or public utilities, in any zoning district. In no event shall any Personal Wireless Service Facility be allowed anywhere within the Town of Amsterdam without completing the procedural and other requirements of the Personal Wireless Service Facilities Overlay District.

C. Underlying Zoning Regulations:

The requirements of the underlying zoning districts shall apply within the Personal Wireless Service Facilities Overlay District unless the provisions set forth in this Section are deemed more stringent than the underlying requirements. All structures and facilities accessory to Personal Wireless Service Facilities, including but not limited to equipment sheds, parking areas, anchors,

bases and pads, shall comply with the existing setback and dimensional requirements established for principal structures in the underlying zoning district, except for the height of a proposed tower or monopole.

D. Requirements:

No Personal Wireless Service Facility shall be erected, constructed, installed, operated or modified except as set forth below, and upon issuance of Site Plan Approval by the Planning Board pursuant to Section 20 of this Zoning Law. An applicant for PWSF Site Plan Approval must be a Personal Wireless Service Provider licensed by the Federal Communications Commission (FCC), or must provide a copy of an executed contract to provide land or facilities to a licensed PWSF provider at the time that an application is submitted. A “letter of intent” is not acceptable to exhibit a binding agreement with a provider for use of said facility. No approval shall be granted for a tower or facility to be built on speculation.

At the time of submission, the applicant shall pay a Personal Wireless Service Facility Application fee in accordance with the fee schedule established and annually reviewed by the Town Board.

Applicants for Site Plan Approval shall file with the Planning Board ten (10) copies of the following documents.

1. **Site Plan.** A Site Plan, in conformance with applicable site plan submission requirements and procedures contained in Section 20 of the Zoning Law. The Site Plan shall show elevations, height, width, depth, type of materials, color schemes, and other relevant information for all existing and proposed structures, equipment, parking, and other improvements. The Site Plan shall also include a description of the proposed Personal Wireless Service Facilities, and such other information that Section 20 of the Zoning Law or the Planning Board may require.
2. **Environmental Assessment Form.** A completed Part 1 of the Full Environmental Assessment Form (FEAF), including the Visual EAF Addendum. Particular attention shall be given to visibility from key viewpoints identified in the Visual EAF Addendum, existing tree lines and proposed elevations. The Project Description in Part 1 of the FEAF should include the anticipated five year build-out of the provider’s telecommunications network in the Town, including any future planned Personal Wireless Service Facilities.
3. **Landscape Plan.** A Landscape Plan delineating the existing trees or areas of existing trees to be preserved, the location and dimensions of proposed planting areas, including the size, type and number of trees and shrubs to be planted, curbs, fences, buffers, screening elevations of fences and materials used. For towers or monopoles, the Landscaping Plan shall address the criteria set forth in Section 15-F.
4. **Documentation of Proposed Height.** Documentation sufficient to demonstrate that the proposed height is the minimum height necessary to provide service to locations which the applicant is not able to serve with existing facilities within and outside the Town.

5. **Statement Regarding Co-Location.** For new Personal Wireless Service Facilities, a statement by the applicant as to whether construction of the Facility will accommodate co-location of additional Facilities for future users.
6. **Structural Engineering Report.** A report prepared by a New York State licensed professional engineer specializing in structural engineering as to the structural integrity of the Personal Wireless Service Facility, and certifying that it is designed to meet all local, State and Federal structural requirements for load, including wind and ice loads. In the case of a tower or monopole, the Structural Engineering Report shall describe the structure's height and design including a cross section of the structure, demonstrate the structure's compliance with applicable structural standards and describe the structure's capacity, including the number of antennas it can accommodate and the precise points at which the antennas shall be mounted. In the case of an antenna mounted on an existing structure, the Structural Engineering Report shall indicate the ability of the existing structure to accept the antenna, the proposed method of affixing the antenna to the structure, and the precise point at which the antenna shall be mounted.
7. **Engineering Analysis of Radio Emissions.** An engineering analysis of the radio emissions, and a propagation map for the proposed Personal Wireless Service Facilities. The analysis shall be prepared and signed by a New York State licensed professional engineer specializing in electrical engineering with expertise in radio-communication facilities. The results from the analysis must clearly show that the power density levels of the electromagnetic energy generated from the proposed Facility are within the allowable limits established by the Federal Communication Commission (FCC) which are in effect at the time of the application. If the proposed Personal Wireless Service Facilities would be co-located with an existing Facility, the cumulative effects of the Facilities must also be analyzed. The power density analysis shall be based on the assumption that all antennas mounted on the proposed Facility are simultaneously transmitting radio energy at a power level equal to the maximum antenna power rating specified by the antenna manufacturer.
8. **Map of Proposed Coverage and Existing and Future Facilities.** A map showing the area of coverage of the proposed Facility and listing all existing Personal Wireless Service Facilities in the town and bordering municipalities containing Personal Wireless Service Facilities used by the applicant, and a detailed report indicating why the proposed Personal Wireless Service Facilities is required to provide service to locations which the applicant is not able to serve with existing Facilities which are located within and outside the Town by co-location and otherwise. This coverage map should also delineate the anticipated five-year build out of the applicant's network, including any future planned Personal Wireless Service Facilities.
9. **Visual Impact Analysis.** The applicant shall prepare a Visual Impact Analysis which includes the following items. (This requirement may be waived by the Planning Board at the Sketch Plan Conference for applications which propose co-location on an existing PWSF or attachment to an existing structure.)

- a. Viewshed Map based on a USGS 7.5' quadrangle map delineating potential visibility zones at foreground (0-0.5 miles), middleground (0.5-3.5 miles) and background (3.5-5.0 miles) from the proposed facility. All public use areas and visually sensitive resources should be identified. A minimum of eight (8) line of site profile transects should be delineated at 45 degree intervals.
 - b. Balloon Test. Within 30 days of submitting the application, the applicant shall fly a brightly colored weather balloon at least five feet (5') in diameter at the maximum height of the proposed Personal Wireless Service Facility, for four (4) consecutive daylight hours. At least two (2) weeks prior to the balloon test, the applicant shall mail notification of the date and time of the test to the Planning Board and to all landowners whose property is located within one thousand (1,000) feet of any property line of the parcel on which the facility is proposed. The Applicant shall also advertise the date, time, and location of the balloon test in the Town's official newspaper 7-14 days in advance of the test.
 - c. Photosimulation of "before and after" views of the proposed facility from key viewpoints both within and outside the Town, including, but not limited to major roads, public land, historic sites, or other locations where the site is visible to a large number of residents, visitors, or travelers.
10. **Escrow Account.** An applicant shall deposit with the Town funds sufficient to cover the reasonable costs of expert engineering evaluations and consultation in connection with the application review. These independent engineering evaluations may include site plan, structural, radio-frequency, and other reviews as necessary. The Town will maintain a separate escrow account for these funds. An initial deposit of \$7,500 shall accompany the filing of the application, and subsequent deposits may be required to maintain a balance of no less than \$2,500. At the conclusion of the review, any excess funds in the escrow account will be promptly refunded to the applicant.
11. **Intermunicipal Notification for New Personal Wireless Service Facilities.** In order to facilitate intermunicipal cooperation, and the possible shared use of personal wireless service facilities, an applicant for a new Personal Wireless Service Facility must notify in writing the legislative body of each municipality that borders the Town of Amsterdam (the City of Amsterdam, Towns of Florida, Mohawk, Perth, Galway, and Glenville, and Villages of Hagaman and Fort Johnson) of their intended application. Notification must include a map showing the exact location of the proposed facility and a general description of the project including, but not limited to, the height of the facility and its capacity for future shared use. Documentation of this notification must be submitted to the Town with the initial application.
12. **Public Hearing.** A public hearing shall be held on the proposed PWSF Site Plan Review within sixty (60) days of the application submission. Notice of said hearing shall be published in the Town's official newspaper at least five (5) days prior to the hearing. Notice of the hearing shall be sent to the Montgomery County Planning Board if the project is subject to review under General Municipal Law §239-m, accompanied by a full statement of the proposed project. The applicant shall be required to mail notice of the public hearing to

all landowners whose property is located within one thousand (1,000) feet of any property line of the parcel on which the facility is proposed, at least two (2) weeks prior to the date of said public hearing. Notification shall be made by U.S. Certified Mail, return receipt requested, and proof of such mailing shall be presented to the Board at the public hearing.

13. **Performance Bond or other security.** Prior to Site Plan Approval, a performance bond or other security sufficient to cover the full cost of the removal and disposal of the Personal Wireless Service Facility upon abandonment of said facility shall be provided by the owner/operator. This cost shall be determined by an estimate of the town designated engineer. Any such security must be provided pursuant to a written security agreement with the Town, approved by the Town Board and also approved by the town attorney as to form, sufficiency and manner of execution. The form of security shall be limited to those permissible under NYS Town Law section 277 subsection 9 (c) I V.

E. Criteria for Site Plan Applications:

Applicants for Site Plan Review for the establishment of construction of Personal Wireless Service Facilities shall meet all of the following criteria:

1. **Necessity.** The applicant must prove that the proposed Personal Wireless Service Facility is necessary in order to provide service to locations which the applicant is not able to serve with existing Facilities which are located within and outside the Town by co-location and otherwise. Furthermore, the applicant must demonstrate that the proposed facility is the least intrusive means available to fill a significant gap in coverage. The application must document good faith efforts to secure co-location on existing Personal Wireless Service Facilities, and to secure shared use from owners of all existing tall structures in the coverage area. Any physical, technical and/or financial reasons which make co-location or shared use unfeasible must be documented.
2. **Co-location.** The co-location - on existing Personal Wireless Service Facilities only within the Personal Wireless Service Facilities Overlay District shall be strongly preferred to the construction of new Personal Wireless Service Facilities.

If a new site for a Personal Wireless Service Facilities is proposed, the applicant shall submit a report setting forth in detail:

- a. an inventory of existing Personal Wireless Service Facilities within the Personal Wireless Service Facilities Overlay District which are within a reasonable distance from the proposed Facility with respect to coverage,
- b. an inventory of existing Personal Wireless Service Facilities in other municipalities which can be utilized or modified in order to provide coverage to the locations the applicant is seeking to serve, and
- c. a report on the possibilities and opportunities for co-location as an alternative to a new site.

The applicant must demonstrate that the proposed Personal Wireless Service Facilities cannot be accommodated on an existing Facility within the Personal Wireless Service Facilities Overlay District or on an existing Facility in another municipality due to one or more of the following reasons:

- a. The proposed equipment would exceed the existing and reasonably potential structural capacity of existing and approved Personal Wireless Service Facilities within the Personal Wireless Service Facilities Overlay District, considering existing and planned use for those Facilities.
 - b. The existing or proposed equipment would cause interference with other existing or proposed equipment which could not reasonably be prevented or mitigated.
 - c. Existing or approved Personal Wireless Service Facilities within the Personal Wireless Service Facilities Overlay District or in neighboring municipalities do not have space on which the proposed equipment can be placed so it can function effectively and reasonably, and the applicant has not been able, following a good faith effort, to reach an agreement with the owners of such Facilities.
 - d. Other reasons make it impractical to place the proposed equipment on existing and approved Personal Wireless Service Facilities within the Personal Wireless Service Facilities Overlay District or existing Facilities in other municipalities.
 - e. Service to the locations to which the applicant seeks to provide service cannot be provided by existing facilities within or outside the Town.
3. **Minimum Lot Size.** The minimum lot size for a tower or monopole shall be equal to the square of twice the tower's or monopole's height, or the minimum lot size required by the underlying zoning district, whichever is greater.
 4. **Setbacks.** Unless the FCC promulgates rules to the contrary, all Personal Wireless Service Facilities shall be separated from all existing residential dwellings by a distance of no less than five hundred (500) feet. Personal Wireless Service Facilities must comply with all setback requirements of the underlying zoning district, or must be located with a minimum setback from any property line equal to two (2) times the height of the tower, whichever is greater. A waiver from the property line setback may be granted by the Planning Board if such waiver would allow the new facility to be located on an existing tall structure or tower. Setbacks from towers or monopoles shall be measured from the base of the structure.
 5. **Security Fencing.** Security fencing, showing the location, materials and height, shall be provided, around each tower or monopole to secure and visually screen the site. Access to the structure shall be through a locked gate.
 6. **Architectural Compatibility.** Whenever feasible, Personal Wireless Service Facilities shall locate on existing structures, including, but not limited to buildings, silos, water towers, utility structures, and existing communication facilities, provided that such installation preserves the character and integrity of these structures. Where a Personal Wireless Service

Facility is to be attached to an existing building or structure, such facility shall be integrated into such existing building or structure in such a manner which blends with the architectural characteristics of the building or structure to the maximum extent practicable.

7. **Placement.** Unless wall-mounted on an existing roof-mounted mechanical enclosure or similar appurtenance, all antennas mounted on a roof shall be located so that visibility of the antenna is limited to the greatest extent practicable. Antennas wall-mounted on a roof mounted mechanical enclosure or similar appurtenance shall not extend above the height of the appurtenance at the attachment location.

F. Design Guidelines:

The proposed Personal Wireless Service Facility shall meet the following applicable design guidelines:

1. **Finish/Colors.** Towers or monopoles not requiring Federal Aviation Administration (FAA) painting or marking shall either have a galvanized finish or be painted to blend with their surroundings. Accessory structures shall maximize the use of building materials, colors and textures designed to harmonize with the natural or manmade surroundings.
2. **Illumination.** No signals, lights or illumination shall be permitted on Personal Wireless Service Facilities unless required by the FAA or other federal, state or local authority.
3. **Landscaping for Towers or Monopoles.** For towers or monopoles, vegetative screening shall be provided to effectively screen the tower base and accessory facilities. At a minimum, screening shall consist of one row of native evergreen shrubs or evergreen trees capable of forming a continuous hedge at least ten (10) feet in height within two (2) years of planting. Existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute of or in supplement toward meeting landscaping requirements. Additional screening may be required to screen portions of the structure from nearby residential property or important views. All landscaping shall be properly maintained to ensure good health and viability, for the life of the facility.
4. **Visibility.** All Personal Wireless Service Facilities shall be designed and sited to have minimum adverse visual effect on residential areas, parks or major roadways. Attachment to existing structures and stealth design techniques which mimic or integrate antenna into man-made structures such as steeples, cupolas, farm structures, flag poles, etc. are highly encouraged. When this is not feasible, tower structures offering slender silhouettes (i.e. monopoles) are preferable to freestanding lattice style structures.
5. **Signage.** Signage shall be prohibited on Personal Wireless Service Facilities except for signage to identify the Facility which is located along the right-of-way frontage. Except as specifically required by a federal, state or local authority, no signage shall be permitted on equipment Mounting Structures or Antennas.

G. Construction and Maintenance

1. **Time Limit for Completion.** A building permit must be obtained within six (6) months after approval of a Site Plan for a Personal Wireless Service Facility and construction of such Facility must be completed within twelve (12) months of such approval. The Site Plan Approval shall automatically expire in the event that the Zoning/Code Enforcement Officer has not granted such permit and construction of the Facility is not completed with the periods set forth above.

2. **Annual Inspections.**
 - a. Unless otherwise preempted by Federal or State Law, Personal Wireless Service Facilities, including towers, monopoles and antennas, shall be inspected annually at the applicant's expense for structural integrity, and a copy of the inspection report shall be promptly transmitted to the Zoning/Code Enforcement Officer. The structural inspection shall be performed by a New York State licensed professional engineer specializing in structural engineering. The structural inspection report shall describe the structural integrity of the Personal Wireless Service Facility, maintenance issues and repairs needed or made, if any. In the event that the structural inspection indicates structural deficiencies, then the deficiencies must be remedied by the applicant at the applicants expense within the time reasonably set by the Zoning/Code Enforcement Officer.

 - b. Unless otherwise preempted by Federal or State law, Personal Wireless Service Facilities, including towers, monopoles and antennas, shall be inspected annually at the applicant's expense for radio emissions, and a copy of the inspection report shall be promptly transmitted to the Zoning/Code Enforcement Officer. Radio emission inspection shall be performed by a New York State licensed professional engineer specializing in electrical engineering with expertise in radio communication facilities. The radio emission inspection shall describe the power density levels of the electromagnetic energy generated from the Facility, including the cumulative effects of co-located antennas. In the event that the radio emission inspection indicates that the electromagnetic energy generated from the Facility are above the allowable limits stated within applicable FCC or ANSI standards or other applicable state or federal guidelines in effect at the time of the inspection, the applicant shall cease all use of the Facility until such time as it proves to the satisfaction of the Zoning/Code Enforcement Officer that the power density levels of the electromagnetic energy to be generated at the Facility are below the applicable standards.

3. **Abandonment.** In the event that the use of any Personal Wireless Service Facility has been discontinued by all operators on such facility for a period of one hundred eighty (180) consecutive days or more, the Facility shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the Zoning/Code Enforcement Officer, who shall have the right to request documentation from the owner/operator of the Facility regarding usage. Upon such abandonment, the owner/operator shall remove the Facility at its own expense, and failing prompt removal, the Town may remove the Facility at the owner/operator's expense. At the applicant's expense, the site shall be returned to the maximum extent practicable, to its original condition. All Site Plan Approvals, variances and

approvals of any nature granted by the Town shall automatically expire as of the date of abandonment of the facility.

H. Alteration of an Existing Antenna.

Alteration of an existing antenna which results in an increase in the size or height of the equipment mounting structure may be permitted only after application to the Planning Board which shall review the matter as if the alteration were an entirely new application for a Site Plan Approval. Site Plan Review is not required in the case of minor modifications to antennas which do not result in an increase to the overall height of the structure. However, the following documents must be submitted to the Town Clerk for review and approval by the Town's expert engineering consultant(s) at the applicant's expense:

1. Plans, elevations and details of the proposed alterations. Certification by a New York State Licensed Engineer specializing in structural engineering that the structure is capable of carrying the design load of the proposed alterations, and that the modifications will not result in an increase in the overall height of the structure.
2. Certification by a New York State Licensed Engineer with expertise in radio-communication facilities that the total radio-frequency emissions generated after modification are within the allowable limits established by current FCC regulations.

I. Exemption from this Section.

The following are exempted from the provisions of this Section:

1. Machines and equipment designed and marketed as consumer products, such as walkie-talkies, ham radios not used commercial purposes, remote control toys, and cellular phones;
2. Hand-held, mobile, marine and portable radio communication transmitters and/or receivers;
3. Two-way radios utilized for temporary or emergency service communications;
4. Two-way radios utilized for government service communications;
5. Back-up wireless transmitters connected to an alarm monitoring service that transmits to a remote monitoring center in the event of an emergency when the telephone lines are inoperable, and
6. Over-the-air receive only devices in compliance with FCC rules and standards.

SECTION 16. H – HISTORIC OVERLAY DISTRICT

1. Purpose and Intent:

The former Hurricana Farm is one of the most important historical sites in the Town of Amsterdam. The purpose of the Historic Overlay District is to ensure that future development of the site is in harmony with the preserved horse barns and structures. Any proposed development in this district should be sensitive to the scale, materials, color, massing and roof slopes of the existing farm structures.

2. Extent:

The Historic Overlay District shall cover the remaining lands of the original Hurricana Farm that have not been commercially developed as of the date of this law.

3. Underlying Zoning Regulations:

The requirements of the underlying zoning district shall apply within the Historic Overlay District, including designations of permitted and special uses, setback and dimensional requirements, and all supplementary regulations, unless the provisions set forth in this section are deemed more stringent than the underlying requirements. In such a case, these provisions will supercede the underlying requirements.

4. Review Procedure:

All uses within the Historic Overlay District shall require Site Plan Review. An architectural review shall be conducted by the Planning Board concurrent with, and as part of, Site Plan Review. The Planning Board shall specifically consider and determine if the architectural features of the proposed development (including location, scale, massing, materials, color and roof slopes) are compatible with the remaining historic structures on the site.

In addition to all other requirements of Site Plan Review, the applicant shall submit elevations at a scale of $\frac{1}{4}'' = 1'$ for all exterior facades of the proposed structure(s) showing design features and indicating the type and color of materials to be used.

ARTICLE V – AREA AND HEIGHT REGULATIONS
LOTS, YARDS AND BUILDINGS

SECTION 17. REGULATIONS IN SCHEDULE A

Regulations governing lot area and lot width; front, side and rear yards; building coverage and building height are specified in Schedule A and in the additional regulations of Article V, and supplementary regulations of Article VIII. Schedule A accompanies, and is hereby made a part of this law.

SECTION 18. AREA REGULATIONS

1. Lots of Less Than Required Dimensions:

- A. Any lot with an area or a width less than that required in the district in which said lot is located may be used for any permitted principal use in the district, provided that all other regulations prescribed for the district shall be complied with, and further provided that said lot was held under separate ownership at the time of the adoption of this law and the owner thereof owned no adjoining land that could be combined with said lot to meet the dimension requirements. In addition, all sewer and water systems must be in compliance with the standards set by the New York State Department of Health.
- B. In the event that compliance with the yard and coverage requirements of the district would result in a residential structure of less width than 24 feet, the Board of Appeals shall determine and fix yard and coverage requirements for said lot to permit its reasonable utilization for a permitted use.

2. Reduction of Lot Area. The minimum yards and setbacks required by this law shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot be reduced below the district requirements of this law. Two permanent dwellings on one lot, other than group housing, shall be prohibited unless lot area and yard requirements of the district are met for each dwelling, including required street frontage.

3. Corner Lot. On a corner lot in any district where a front yard is required, a yard shall be provided on each such street equal in depth to the required front yard on each such street. One rear yard shall be provided on each corner lot and the owner shall designate the rear yard on his application for a permit. The Board of Appeals shall determine the yards and building width of a corner lot facing an intersecting street, and of record at the time of the passage of this law, if the yard requirements would result in a residential structure less than twenty-four (24) feet wide.

4. Visibility of Street Corners. On a corner lot in any district where a front yard is required, no fence, hedge wall or other structure or planting more than three feet in height shall be erected, placed or maintained so as to obstruct visibility of vehicular traffic within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said lines at points 20 feet distant from the point of intersection, measured along said lines.

5. Front Yard Exceptions. The minimum front yard of all principal buildings and structures hereafter constructed within a Residential District shall conform with Schedule A; and in addition shall not be less than the average front yard of all principal buildings in the block for a distance of 300 feet on each side of such building. A vacant lot within the 300-foot distance shall be considered as having the minimum front yard required in the district for the purpose of computing such average front yard.

6. Transition Yard Requirements:

- A. Where two districts abut on the same street between two intersecting streets, and the front yard requirements of one district are less than those of the other district, there shall be provided for buildings hereafter constructed or structurally altered within a distance of 50 feet from the district boundary line in the less restricted district a front yard equal in depth to the average of the required depth in the two districts.
- B. Where any permitted non-residential land use, multiple family development or mobile home park abuts an existing residential parcel or vacant parcel where residential development could occur, a strip of land at least 20 feet wide shall be maintained as a landscaped area in the front, side and/or rear yard which adjoin these areas. Required landscaping shall be installed and maintained in a healthy, growing condition and shall take the form of any or all of the following: shade trees, deciduous shrubs, evergreens, well-kept grassed areas or ground cover.

7. Projecting Architectural Features, Terraces, Porches, Fire Escapes:

- A. The space in any required yard shall be open and unobstructed except for the ordinary projections of window sills, belt courses, cornices, eaves and other architectural features, provided, however, that such features shall not project more than two feet into any required yard.
- B. A paved terrace shall not be considered as part of a building in the determination of yard sizes or lot coverage, provided that such terrace is unroofed and without walls, parapets, or other form of enclosure exceeding six feet in height.
- C. In determining the percentage of building coverage of the size of yards for the purpose of this law, enclosed porches open at the side but roofed, shall be considered a part of the building.
- D. An open fire escape may extend into any required yard not more than four feet six inches provided such fire escape shall not be closer than four feet at any point to any lot line.
- E. Unenclosed entrance steps or stairways providing access to the first story of a building may extend into any required yard a distance not to exceed six feet.

8. **Walls, Fences and Hedges.** The yard requirements of this law shall not prohibit any necessary retaining wall nor any fence, wall or hedge permitted by Town law, provided that in any Residence District such fence, wall or hedge shall be no closer to any front lot line than two feet, and shall comply with visibility at street corners as provided in this Article.

SECTION 19. HEIGHT REGULATIONS

1. **Chimneys, Spires, etc.** The height limitations of this law shall not apply to belfries, church spires, cupolas, penthouses, silos and domes which are not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks and necessary mechanical appurtenances usually carried above the roof level; nor to flag poles, monuments, transmission towers and cables, radio and television antennae or towers, wind energy facilities and similar structures. Such features however, shall be erected only to such height as is necessary to accomplish the purpose for which they are intended. No advertising device of any kind whatsoever shall be inscribed upon or attached to that part of any chimney, tower, tank or other structure which extends above the roof limitation.
2. **On Through Lots.** On through lots 120 feet or less in depth, the height of a building may be measured from the grade of either street. On through lots more than 120 feet deep, the height regulations and basis of height measurement for the street permitting the greater height shall apply to a depth of not more than 120 feet from that street.

ARTICLE VI – SITE PLAN REVIEW

SECTION 20. SITE PLAN REVIEW

1. Purpose

The purpose of Site Plan Review is to determine that a proposed development, subject to site plan approval, is in compliance with the objectives of this law, creates no unhealthful or unsafe conditions, and does not adversely impact adjacent land uses or the health, safety, or general welfare of the community.

The principle areas of concern are:

- A. The balancing of landowners' right to use their land with the corresponding rights of abutting and neighboring landowners to live without undue disturbances.
- B. The convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent areas or roads.
- C. The adequacy of waste disposal methods and protection from pollution of surface or groundwater.
- D. The protection of historic and natural environmental features on the site under review and in adjacent areas.

2. Developments Requiring Site Plan Review

All development projects other than single-family or two-family dwellings and related accessory uses, or agricultural structures and related accessory uses, require Site Plan Review. In addition, all Special Permits require Site Plan Review. Site Plan Review and Special Permit Review shall be conducted jointly by the Planning Board.

3. Authorization to Grant or Deny Site Plan Approval

The power to approve, approve with conditions or disapprove site plans is vested in the Planning Board. The Planning Board is hereby given the authority to impose such reasonable conditions and restrictions which are directly related to and incidental to the proposed site plan. The Board may also waive any requirements for the approval of site plan review provided such are found not to be needed to ensure the public health, safety and general welfare of the residents of the Town.

4. Pre-Application Sketch Plan Conference

Prior to the submission of a formal site plan application, a Sketch Plan Conference shall be held between the Planning Board and the applicant to review the basic site design concept, to determine the information required for inclusion in the Site Plan submission, and to discuss the necessary subsequent steps and answer procedural questions relative to site plan review.

The Planning Board Secretary should schedule the Sketch Plan Conference for the next convenient public Planning Board meeting, or otherwise, at the convenience of the Planning Board.

A. The pre-application Sketch Plan Submission shall include:

1. A general description of the proposed project, including the type, number and height of proposed structures.
2. A Sketch of the Site Plan showing:
 - a. Title of drawing, north arrow, date, and scale.
 - b. Location of site with respect to existing and proposed rights-of-way and intersections.
 - c. Internal street pattern, if any, of the proposed development and utilities to be available.
 - d. Location of all existing and proposed structures on the site and future use of the same.
 - e. Existing boundaries and zoning classification(s) of the property and of all adjacent properties, and any restrictions on land use of the site.
 - f. Existing natural features on the site and future use of same.
 - g. Contour intervals at adequate scale to show site topography, including 200 feet of adjacent property.
 - h. Names of owners of all adjacent properties.
3. An Area Map, including the following information:
 - a. The scale, which shall be not less than 1" = 400'.
 - b. All streets, lots, and USGS contours between the proposed development and the nearest collector or arterial street in every direction, or within 500 feet of the property, whichever is less.
4. Any general site information and data regarding conditions (susceptibility to erosion or flooding, development plans, phased development or growth, etc.)

B. The Planning Board may, at this stage, suggest changes to the pre-application Sketch Plan involving street layout, traffic patterns, lot size or shape, preservation of natural features, or other matters which will improve the layout, in keeping with the best interest

of the Town. As guidance in the preparation of submission materials for the Site Plan Review process, the Board shall decide the contour intervals to be incorporated in the Grading and Drainage Plan, indicate the choice of EAF (Environmental Assessment Form: Long vs. Short), and decide the necessity for, and level of detail of, any soil and vegetation studies, traffic studies, cultural resource studies, off-site improvement plans, or any other special study that has been revealed to be a significant special requirement.

- C. The applicant shall reimburse the Town for all engineering, legal and other professional fees incurred in review of the development project. The Town shall require payment by the applicant of an amount equal to the estimated cost of such professional fees to be held in escrow by the Town, which estimated cost shall be paid prior to the Town incurring any professional costs. At the conclusion of the review, any excess funds in the escrow account will be promptly refunded to the applicant.
- D. The Planning Board shall be permitted to have a reasonable time to review the plan, but in no instance shall it have longer than forty-five (45) days, unless provided for elsewhere in this local law. After the elapse of the 45-day period, if there has been no action on the part of the Planning Board, the pre-application process shall be considered complete.
- E. The Planning Board shall notify the Applicant in writing of its decision. A copy of the Minutes of the meeting at which the decision was made shall suffice, completing the pre-application process.

5. Site Plan Review Submission Requirements

After the pre-application process has been completed an Application for Site Plan Approval shall be submitted to the Planning Board at least 10 days prior to the date of its discussion at a regularly scheduled meeting. Ten copies of the Application and required information as set forth below shall be submitted. Each Application shall be accompanied by any or all of the following information as required by the Planning Board, prepared by a licensed engineer, architect, landscape architect, or surveyor, and certified by the seal and signature of such professional.

- A. A Location Map, at a scale of not less than 1" = 2000 feet, showing all streets and lands within at least 5,000 feet of the proposed development.
- B. An Area Map (scale to be not less than 1" = 400') showing that portion of the Applicant's property under consideration, the Applicant's entire adjacent holdings, and all properties, subdivisions, streets, and easements within five hundred (500) feet of Applicant's property.
- C. A Site Plan (scale to be not less than 1" = 30') including the following information:
 - 1. Title of project including name and address of owner of record, applicant, developer and professional responsible for the preparation of such drawing.

2. North arrow pointing to top of plan sheet, scale, and date.
3. All existing and proposed lot lines, easements and rights-of-way. Indicate the number and dimensions of lots including width, depth, and acreage or square footage, and the location, dimensions, and purpose of any existing and proposed easements and covenants.
4. Names, addresses and tax map numbers of owners of record of adjoining properties and those within two hundred feet (200') of the property line.
5. Grading and drainage plan showing existing and proposed contours at two foot (2') intervals or an appropriate interval specified at the Sketch Plan Conference. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. All slopes of 12 degrees or greater shall be delineated. Indicate areas within the site where ground removal or filling is required, and give its approximate volume in cubic yards. Also indicate all areas which will be disturbed by development construction.
6. The location of all existing and proposed buildings and structures within the development and within two hundred feet (200') of its boundaries. Include all dimensions of height and floor area, and show all exterior entrances, and all anticipated future additions and alterations.
7. Location, design, and construction materials of all streets, as well as off-street loading and parking facilities, with access and egress drives thereto. Indicate traffic flow patterns within the site, entrances and exits, loading and unloading areas, and curb cuts on the site and within one hundred feet (100') of the site. Include the lineal feet of streets, numbers of parking spaces, etc.
8. Provision for pedestrian access and the location of all existing and proposed sidewalks, bikeways, or footpaths on the property and adjacent to it. The location, design, and construction materials of all existing or proposed site improvements, including sidewalks, ramps, curbs, retaining walls, and fences.
9. The location of and required setbacks from watercourses, wetlands, protected slope reserves, and the 100-year floodplain, surveyed and delineated by a licensed engineer or land surveyor. If any portion of the parcel is within the 100 year flood plain, the area shall be shown and base flood elevations given.
10. The total acreage of the property, including acreage of building footprints, impervious surfaces and green space.
11. A landscape plan and planting schedule. Show all existing natural land features, trees, forest cover and water sources, and all proposed changes to these features, including size and type of plant material, and erosion control measures. Water sources include ponds, lakes, brooks, streams, wetlands, flood plains and drainage retention areas. Show location of all proposed buffer areas with an indication of existing vegetative cover and areas to be left undisturbed.

12. The location of all present and proposed utility systems including:
 - a. Sewage or septic systems
 - b. Water supply system
 - c. Telephone, cable, electrical and gas distribution systems.
 - d. Storm drainage system including drainage lines, culverts, catch basins, headwalls, endwalls, manholes and drainage swales.
 13. Adjoining wells and sewage systems within 200 feet of property line.
 14. Location of fire and other emergency zones, including the location of fire hydrants.
 15. Location, height, size, design, and construction materials of all proposed signage.
 16. Location, height, intensity and bulk type (e.g. fluorescent, sodium incandescent) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
 17. Designation of the amount of building area proposed for retail sales or similar commercial activity so that the adequacy of parking and other factors may be reviewed.
 18. The location and size of outdoor storage and waste storage, if any, and the method of screening from public view.
 19. Air conditioning units and other facilities located on roof tops of buildings and location of exhaust fans for use in relationship to adjacent residential areas.
 20. Zoning District Boundaries within two hundred (200') of the site perimeter shall be shown and identified on the plan. Indicate the minimum setback lines on the project site and the applicable zoning regulations including density, lot coverage, and other regulations.
 21. Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive run-off, excessive raising or lowering of the water table, and flooding of other properties, as applicable.
 22. Elevation plans at a scale of $\frac{1}{4}'' = 1'$ for all exterior facades of the proposed structure(s) and/or existing facades, plus addition(s) showing design features and indicating the type and color of materials to be used.
- D. A completed Part 1 SEQR (State Environmental Quality Review) Short or Long Form EAF (Environmental Assessment Form), as specified by the Town Planning Board at the Sketch Plan Conference, to identify the potential environmental, social, and economic impacts of the project.

- E. A copy of the payment to the Town Clerk of the Site Plan Review Fee, as set by the Fee Schedule determined annually by the Town Board, to cover the costs of the application review and public hearing.
- F. A copy of the payment to the Town Clerk for the establishment of a Project Escrow Account, in an amount equal to the Town Engineer's estimate, covering those services connected with the review of the development plans and construction of the project.
- G. Such additional reports, maps, plans or materials as the Planning Board may reasonably request and deem necessary to make the determinations required by SEQR and the requirements of this Article, including identification of any State or County permits required for the project's execution.
- H. Optional Submission Material: Additional information may be required with the Site Plan Application. The Planning Board may waive, upon the request of the applicant, any of the following submission requirements, if the Planning Board determines that such requirement is not necessary or appropriate for the review process.
 - 1. A Soils and Drainage Plan and Study showing all soils areas and their classification, and those areas, if any, with moderate-to-high susceptibility to flooding, and moderate-to-high susceptibility to erosion. For areas with potential erosion problems, the study shall also include an outline and description of existing vegetation. The Planning Board may also request soil logs, soil profile analysis (deep test pits), percolation tests and storm water run-off calculations for large developments or those in environmentally sensitive areas. "Zero increase in runoff" shall be clearly demonstrated by pre- and post- drainage calculation studies.
 - 2. A detailed Traffic Study may be required for large developments or for those in heavy traffic areas. It should be based on the latest Institute of Transportation Engineers data, methodology and standards, estimating the average annual daily traffic (AADT) and peak hour A.M. and P.M. trips to be generated by the development. The study shall estimate the distribution of trips between the entrance(s) to the project site and the Town's arterial streets. Any intersection(s) whose peak hour levels of service may be adversely impacted by traffic from the development shall be identified and mitigation measures offered, taking into consideration traffic from other existing and proposed traffic generators in the area.
 - 3. A Bridge and Culvert Plan, if applicable, of the preliminary designs and construction materials for any such structures for the development.
 - 4. An Erosion and Sediment Control Plan.
 - 5. An Off-Site Improvement Plan showing such work to be undertaken by the applicant in conjunction with the development of the project site.

6. Detailed Construction Plans: It shall be the responsibility of the Applicant to distribute one copy each of separate construction drawings to the Town Engineer, the Superintendent of Highways, the Superintendent of Wastewater, and the Planning Board, which include plans and profiles showing:
 - a. Elevations along center lines of all streets within the development, and, where a proposed street intersects an existing street, the plan shall show the elevation along the center line of the existing street to a distance of one hundred (100) feet from the intersection.
 - b. The locations of street pavements, including curbs, gutters, and sidewalks, if applicable.
 - c. The location, size, invert elevations, and design calculations of existing and proposed sanitary sewers.
 - d. The location, size, and design calculations of existing and proposed water lines and fire hydrants.
 - e. The existing and proposed storm drainage system including design storm information, the drainage basin area, development extent, pipe flow information, manholes, culverts, and catch basins.
 - f. The location and size of gas, electricity, street lighting, and other utilities or structures.

6. Factors for Consideration

The Planning Board's review of a Site Plan shall include, but is not limited to, the following considerations:

- A. Full conformance of the site plan with the provisions of this law.
- B. Adequacy and arrangement of vehicular traffic access and circulation including intersections, road widths, pavement surfaces, channelization structures, and traffic controls. Consideration will also be given to the project's impact on the overall traffic circulation system of the neighborhood and the Town.
- C. Adequacy of fire lanes and other emergency zones, traffic circulation, and system of fire hydrants.
- D. Adequacy and arrangement of pedestrian traffic access and circulation, including but not solely limited to: separation of pedestrian from vehicular traffic, control of intersections, and overall pedestrian convenience. Where appropriate: consideration of access and facilities for bicycles.

- E. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs. As much as possible consideration should be given to noise sources, privacy, prevailing wind directions, and seasonal sun movements when locating structures, patios, and open spaces on parcels, as well as exhaust fans and outdoor waste disposal locations.
- F. Location, arrangement and setting of off-street parking and loading areas.
- G. Adequacy, type and arrangement of trees, shrubs, and other landscaping which constitute a visual and/or noise-detering buffer between the adjoining properties.
- H. In the case of a condominium, townhouse or multiple-family dwelling complex, the adequacy of useable open space for playgrounds and informal recreation.
- I. Adequacy of provisions for water supply for both general consumption and fire protection, the disposal or on-site containment of storm water and drainage, sanitary waste and sewage, solid waste disposal, and snow removal storage areas.
- J. Adequacy of structures, roadways, and landscaping in areas with moderate to high susceptibility to flooding, ponding, and/or erosion.
- K. Protection of abutting properties and Town amenities from any undue disturbances caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare, stormwater runoff, etc.
- L. Retention of existing trees and vegetation for protection and control of soil erosion, drainage, natural beauty, and unusual or valuable ecology. Where tree removal is required, special attention shall be given to planting of replacement trees.
- M. The building setbacks, area and location of parking, architectural compatibility, signage and landscaping, and how these features harmonize with the character of the surrounding area and natural landscape.

In its review, the Planning Board is encouraged to consult with the Town Planner and Town Engineer and other Town and County officials and Boards, as well as with representatives of Federal and State agencies, including the Soil and Water Conservation District, the U.S. Army Corps of Engineers, or the New York State Department of Environmental Conservation. Some applications will require automatic referrals to other agencies, particularly those near Town boundaries, those involving extension of water or sewer districts, and those impacting County or State lands, rights-of-way, or facilities.

7. Modifications

The Planning Board may require such additional provisions and conditions that appear necessary for the public health, safety, and general welfare.

8. Action on Site Plan Application

- A. The Planning Board shall conduct a public hearing on the site plan. Such hearing shall be held within sixty-two (62) days of the date that the Planning Board determines that the application for site plan review is complete and shall be advertised in the Town's official newspaper at least five (5) days before the public hearing. The Planning Board shall mail notice of said hearing to the applicant at least ten (10) days before said hearing.
1. Pursuant to General Municipal Law §239-m if applicable, a copy of the public hearing notice shall be sent to the Montgomery County Planning Board at least ten (10) days before the hearing. Said notice shall be accompanied by a Full Statement of the proposed action for review and recommendation. Failure of the County Planning Board to report their recommendations to the Town Planning Board within thirty (30) days may be construed to be approval. The concurring vote of a majority plus one of the Town Planning Board shall be necessary to override County Planning Board recommendations of approval with modification or disapproval.
 2. Pursuant to General Municipal Law §239-nn, if a site plan application concerns property within five hundred (500) feet of the Town's municipal boundaries, a copy of the public hearing notice shall be provided by mail or electronic submission to the Clerk of the adjoining municipality at least ten days before the hearing.
- B. The Planning Board shall make a determination of significance of the proposed site plan according to SEQR. If the project receives a Positive Declaration in the SEQR process, the Planning Board shall require the preparation of an EIS (Environmental Impact Statement) as the next necessary step in the SEQR process. The time limits in paragraph C of this section shall not apply until the conclusion of the SEQR process.
- C. Decision of Site Plan Application: Within sixty-two (62) days after the closing of the Public Hearing, and after the completion of the SEQR process, the Planning Board shall make a decision to approve, with or without conditions, or disapprove the application. The Planning Board's action shall be in the form of a written statement to the Applicant, stating whether or not the Site Plan is approved. A copy of the appropriate Minutes of the Planning Board shall be a sufficient report. Any reasons for disapproval or restudy shall be documented.
- Failure to act by the Planning Board within the required time shall be deemed approval. Should the Planning Board need an additional amount of time to consider the application, they may do so with the consent of the applicant. Said agreement shall be recorded in the minutes.
- D. No excavation or pre-construction work, including tree and vegetation removal on a site, shall commence until a Site Plan has been approved. This includes modification to existing stream channels, filling of lands grading or removal of vegetation or excavation for site improvements. Failure to comply shall be construed as a violation of this zoning law and shall be subject to penalties as set forth herein.

- E. Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due to the Town, the Planning Board shall endorse its approval on three (3) copies of the Site Plan and shall forward one (1) copy to the Zoning/Code Enforcement Officer who may then issue one or more Building Permits to the Applicant if the project conforms to all other applicable requirements of this law. The second copy shall be filed with the Planning Board and shall be considered the legally approved plan with which all development on the respective site must conform. The third copy shall be forwarded to the Applicant.
- F. No Certificate of Occupancy shall be issued until all improvements shown on the Site Plan are installed or a Performance Guarantee or Letter of Credit has been posted for improvements not yet completed.

9. Enforcement

- A. The Planning Board may require the posting of a bond or other similar performance guarantee to ensure compliance with the plan and stated conditions of approval. The sufficiency of such performance guarantee shall be determined by the Town Board after consultations with the Planning Board, Zoning/Code Enforcement Officer, Town Attorney and other appropriate parties. The Zoning/Code Enforcement Officer may suspend any permit or license when work is not performed as required.
- B. Inspection of improvements. The Zoning/Code Enforcement Officer and/or Town Engineer shall be responsible for the overall inspection of site improvements including coordination with other officials and agencies as appropriate.

ARTICLE VII – SPECIAL PERMITS

SECTION 21. SPECIAL PERMITS

1. Purpose

It is the policy of the Town of Amsterdam to allow a variety of land uses, provided that such uses do not adversely affect neighboring properties, the natural environment or the character of the Town. Many of the uses listed in Schedule A are therefore permitted only upon issuance of a Special Permit, in order to ensure that these uses are appropriate to their surroundings. It is the intent of this Section to use Special Permits to control the impact of certain uses upon areas where they may be incompatible unless conditioned in a manner suitable to a particular location.

2. Procedure

All Special Permits require Site Plan Review, therefore the procedure for a Special Permit shall be the same as specified for a Site Plan Review. Site Plan and Special Permit Review shall be conducted jointly to save time, effort and repetition of information.

3. Standards Applicable to all Special Permits

Before granting a Special Permit the Planning Board shall be satisfied that all of the following conditions have been met:

- A. The proposed development is compatible with nearby properties and will not discourage the appropriate development and use of adjacent properties or impair their value.
- B. Traffic generated by the proposed development can be adequately and safely served by the existing and proposed roads and will not cause undue congestion or create a traffic hazard.
- C. The proposed development will not adversely affect community character or appearance.
- D. The proposed development is appropriately located and can be adequately served by necessary community facilities, including police, fire and emergency vehicles.
- E. Operation of any Special Permit use shall be no more objectionable to nearby properties by reason of dust, odor, noise, fumes, vibration, excessive lighting, or water pollution than would be the operation of any permitted use.
- F. The proposed use complies with the goals and objectives of the Comprehensive Plan.

3. Conditions

The Planning Board, in granting Special Permits, shall impose such conditions, safeguards and restrictions upon the proposed development as may be deemed necessary in the public interest. Conditions may include, but are not limited to, the following:

- A. Hours of operation
- B. Access to the subject property
- C. Protection of surface and groundwater
- D. Lighting of the site, to include intensity and shielding, so as not to adversely affect adjacent or nearby property owners.
- E. Adequate sewer and water supplies.
- F. Sound limitations as needed to ensure peaceful enjoyment of neighbors.
- G. The location, size, height, design of buildings, walls, fences, landscaping and buffer.
- H. Covenants or homeowners' association for maintenance of applicable restrictions.
- I. Timing or phasing of development.
- J. Underground Utilities
- K. Control of smoke, dust and odor.
- L. Bonding as required to ensure that standards are met and the plan implemented.

ARTICLE VIII – SUPPLEMENTARY REGULATIONS

SECTION 22. ACCESS TO IMPROVED STREET

In any district, a lot to be used for building purposes shall have frontage on an improved street, or highway, or on a street subdivision plot approved by the Planning Board.

SECTION 23. LOTS IN TWO DISTRICTS

Where a district boundary line divides a lot in one ownership at the time of adoption of said district line, the regulations for the less restricted portion of such lot shall extend a maximum of 30 feet into the more restricted portion provided the lot has frontage on a street in the less restricted district.

SECTION 24. ACCESSORY BUILDINGS

1. **Number:** On any lot intended or used primarily for residential purposes, an accessory building and a private garage for use in connection with the principal dwelling is permitted.
2. **Height:** Maximum height of accessory buildings shall be one story or 15 feet, except that there shall be no height limitations on barns, silos and other farm structures.
3. **Location:** In residence districts accessory private garage buildings which are not attached to a principal building may be erected within the rear or side yard in accordance with the following requirements:
 - A. Rear Yard: Ten feet
 - B. Side Yard: Ten feet, except street side of corner lot is the same as for principal building.
4. In any district, accessory buildings other than private garages shall comply with front and side yard requirements for the principal building to which they are accessory.
5. **Attached Accessory Building in Residence District.** When an accessory building is attached to the principal building, it shall comply in all respects with the requirements of this law applicable to the principal building.
6. Mobile Homes shall be permitted on farms as part of the farm operation.

SECTION 25. TOWN HOUSES/CONDOMINIUMS/MULTIPLE FAMILY DWELLINGS

Town House/ Condominium Unit Developments/Multiple Family Dwellings are Permitted Uses in the R-2, B-2 and Agricultural Districts subject to the following conditions:

1. The site shall have a minimum of five acres with a maximum lot coverage of 25%.
2. Setbacks for the entire complex or development:

- a. Minimum frontage on public street – 75 feet
 - b. Minimum front yard setback – 50 feet
 - c. Minimum side yard width – 50 feet
 - d. Minimum rear yard depth – 50 feet
3. Density Requirements: Maximum density of 4 dwelling units per acre for Townhouses and Condominiums, and 10 dwelling units per acre for Multiple Family Dwellings.
 4. A maximum of 8 Dwelling Units in a Townhouse or Condominium structure and 12 Dwelling Units in a Multi-Family Dwelling structure.
 5. If public water and sewer service are not available, a community water system and centralized sewer system are required. These systems are to be deeded to the Town if required by the Town.
 6. If the complex is a townhouse or condominium in ownership, a homeowners' or condominium association, as approved by the Office of the State Attorney General, shall be required.
 7. Screening of evergreen trees is required at 20 feet from all property lines of the complex or development as determined to be necessary by the Planning Board.
 8. Recreation Area. A minimum open space area for recreation shall be provided at a ratio of one hundred (100) square feet for each dwelling unit. This area may be suitable for active play or passive recreation purposes and may not include parking areas.

SECTION 26. MOBILE HOMES AND MOBILE HOME PARKS

1. General Requirements

- A. All mobile homes placed on individual lots shall be constructed and installed in compliance with all New York State laws and regulations.
- B. Any mobile home placed outside a mobile home park shall have an adequate supply of pure water for drinking and domestic purposes and a sewage disposal system that shall satisfy the New York State Department of Health.
- C. All mobile homes shall bear the seal required by the State of New York or an equivalent acceptable to the State of New York.
- D. All mobile homes shall meet current U.S. Department of Housing and Urban Development (HUD) standards and shall bear the seal designating this compliance and verifying the age of the mobile home.

- E. The mobile home shall be provided with anchors or tie-downs at least at the four corners, attached to a concrete footing installed below the frost line or embedded in concrete runners or a concrete slab or a suitable substitute in conformance with the New York State Uniform Fire Prevention and Building Code.
- G. No additions shall be made to a mobile home except a canopy and/or porch, open on three sides, or an addition made by the mobile home manufacturer and/or built in conformance with the New York State Uniform Fire Prevention and Building Code. Any additions must have a finished exterior appearance.
- H. The mobile home shall be provided with skirting or screening securely fastened around the perimeter extending to the ground. Such skirts shall be made of masonry or a permanent material similar to that sheathing the mobile home, provide adequate ventilation, have a finished exterior appearance and be capable of withstanding extreme weather conditions over extended periods of time. It shall be installed within four months from the date of issuance of the occupancy permit for the mobile home.

2. Mobile Home Park Requirements

- A. Any lot on which two or more mobile homes are located, unless such lot is part of a Farm Operation as defined in Article II, shall be considered a Mobile Home Park and is subject to the requirements of Site Plan Review.
- B. The minimum lot area for a mobile home park shall be at least 10 acres. The dwelling unit density of the entire site shall not exceed 6 dwelling units per acre of land, with a minimum of 7,000 square feet per mobile home site.
- C. Each mobile home lot must have suitable connections to a central sewage disposal system and water supply system. All water supply and sewage disposal systems must be approved by the New York State Department of Health.
- D. Each mobile home lot must have an electrical power source. All electrical wiring and fixtures shall be installed and maintained in accordance with the regulations of the New York State Uniform Fire Prevention and Building Code and the local utility company. Whenever possible electrical transmission and other utility lines shall be placed below ground. Fuel tanks, where used, shall be placed at the rear of the mobile home at least five (5) feet from any exit, and shall have a safety shut-off at the tank.
- E. All mobile homes and other structures shall be set back at least 50 feet from the right-of-way line of any public road or property line and 25 feet from any internal access road.
- F. No mobile home shall be less than 30 feet from any other mobile home. Porches, carports, decks and additions shall not intrude into this 30 feet.
- G. All mobile homes shall have vehicular access to the interior road system only, not to an existing exterior street. Interior roads must be built to Town Road specifications.

- H. Two off-street parking spaces, containing at least 180 square feet per space, must be provided for each mobile home lot.
- I. All entrances and exits, internal access streets and public spaces shall be adequately illuminated.
- J. Recreation Area: A minimum open space area for recreation shall be provided at a ratio of one hundred (100) square feet for each dwelling unit. This area may be suitable for active play or passive recreation purposes and may not include parking areas.
- K. Screening: There shall be suitable landscaping, shrubbery, trees, and screening. The entire mobile home park shall be screened by a ten (10) foot strip of evergreen growth at least eight (8) feet in height except that where exits and entrances are provided, said screening shall not be placed so as to obstruct normal and safe vision at the intersection. Such screening should not be more than three and one-half (3½) feet in height and so maintained within the triangular area formed by the intersecting street line and a point thirty (30) feet distant from the point of intersection as measured along the street line. The Town Planning Board may approve alternate screening methods such as evergreen shrubs and trees and earth mounds provided that proper screening is accomplished.
- L. The operator of a mobile home park shall keep a register in which there shall be noted the name and permanent address of every mobile home situated in the park, the registration number of same, the date it was admitted and the date of its removal.
- M. Each mobile home shall have a sign on the lot identifying the mobile home owner and lot number as permitted in the Sign Section of this local law.
- N. Garbage and refuse shall be collected and removed from the premises at least once a week. All refuse shall be stored in flytight, watertight, rodent-proof containers.
- O. A public telephone shall be provided for each mobile home park, and fire extinguishers, approved by the local fire district officers, shall be furnished so that no mobile home is more than fifteen (15) feet from any such extinguisher.
- P. The outside burning of garbage, trash, or rubbish is prohibited.
- Q. Retail Store: A retail store providing day to day convenience items for the residents of a mobile home park may be permitted as a secondary use in such a park provided that:
 - 1. There shall be no more than one such store for each park.
 - 2. The floor area of the store shall not exceed 1,000 square feet.
 - 3. The orientation of the store shall be directed to the mobile homes and no signs of any type shall be visible from any street of the Town of Amsterdam.

- R. Travel Trailers: In the case of a mobile home park only, no more than twenty (20) percent of the developed sites may be used at anyone time for the purpose of accommodating travel trailers overnight or on a short term temporary basis.

SECTION 27. DRIVE-IN FOOD SERVICES

Any drive-in food service building shall be located 75 feet or more from any public right-of-way. Such businesses, where persons are served in automobiles, shall not be closer than 200 feet to a Residential District. Arrangements of ingress and egress of vehicles, lights, fences and screening shall be approved by the Planning Board in such a way as not to interfere with uses in the Residential District.

SECTION 28. SWIMMING POOLS

1. Pool Permit

All swimming pools which are capable of containing more than 24 inches of water (including inflatable plastic pools, hot tubs and spas) shall require a pool permit issued by the Zoning/Code Enforcement Officer.

2. Installation

Installation shall meet or exceed the requirements set forth in the New York State Uniform Fire Prevention and Building Code as well as the provisions set forth in this section.

3. Accessory structure

Swimming pools are considered an accessory structure. The area of a swimming pool, including any deck, apron or platform and all accessory structures associated with the pool must be included when calculating lot coverage.

4. Location

No swimming pool, spa or hot tub shall be installed, constructed or maintained in a front yard, within ten (10) feet of any side or rear property lines, or on any easement or right-of-way. Pools shall be located away from overhead power lines.

5. Water

Swimming pools, spas and hot tubs may be filled from a private water source (i.e. private well, water service company) or domestic water supply. Hydrant filling is prohibited. Installation of a permanent or temporary plumbing connection to a potable public or private water supply system is prohibited. The pool enclosure must be complete, including fencing if required, before water is put into the pool, spa or hot tub.

6. Electric

A third party inspection of all electrical work shall be performed by a certified electrical inspection agency for compliance with the National Electrical Code and recorded in the Building Department.

7. Fencing

An outdoor residential swimming pool, hot tub or spa, must be surrounded by a barrier which completely obstructs access to the swimming pool. The barrier may consist of a fence, a wall, a building wall, or any combination thereof. Fences shall be structurally sound, durable and must be maintained in such condition to prevent and prohibit accidental or unauthorized entrance to the pool. Fences shall be located so as to prohibit permanent structures, equipment or similar objects from being used to climb the fence.

A. **In-ground pools, spas or hot tubs.** Fences shall be a minimum of four (4) feet in height and a maximum of six (6) feet in height above grade, measured on the side of the fence that faces away from the swimming pool.

B. **Above-ground pools, spas or hot tubs.** The provisions for fencing shall not apply to aboveground pools, spas or hot tubs less than twenty-four (24) inches in height. Pools greater than four (4) feet in height are also exempt, provided that the stairs are removable or designed to be secured in a manner to prevent access. Where the top of the pool is above grade, the fence is authorized to be at ground level or mounted on top of the pool. The maximum vertical clearance between the top of the pool and the bottom of the fence shall be four (4) inches.

C. **Pool structures used as a fence.** Where an aboveground pool structure is used as a fence or where the fence is mounted on top of the pool structure and the means of access is a ladder or steps, then the ladder or steps shall be capable of being secured, locked or removed to prevent access, or the ladder or steps shall be surrounded by a fence. When the ladder or steps are secured, locked, or removed, any opening created shall not allow the passage of a four (4) inch diameter sphere.

D. **Dwelling unit wall as a fence.** Where a wall of a dwelling serves as part of a fence, one of the following shall apply:

1. Doors with direct access to the pool, spa or hot tub through a dwelling unit wall shall be equipped with an alarm which produces an audible warning when the door and its screen are opened. The alarm shall be capable of being heard throughout the house during normal household activities; or
2. The pool shall be equipped with a powered safety cover. Spas or hot tubs with a safety cover which complies with the state code shall be exempt; or
3. Other means of protection shall be provided, such as self-closing doors with self-latching devices, which are approved by the Town Board.

8. Access gate

Access gates shall open outward away from the pool, spa or hot tub and shall contain a self-closing, self-latching, lockable device. Where the release mechanism of the self-latching device is located less than fifty-four (54) inches from the bottom of the gate, the release

mechanism shall be located on the pool, spa or hot tub side of the gate at least three (3) inches below the top of the gate.

9. Existing pools

All existing swimming pools in the Town of Amsterdam must meet the barrier and pool alarm requirements of the New York State Uniform Fire Prevention and Building Code. The Zoning/Code Enforcement Officer is authorized to issue a notice of violation for pools which do not meet these regulations.

10. Lighting

Lighting shall be permitted in, on, or about a pool, spa or hot tub, except that said lighting shall cast no light, glare or reflection onto abutting properties.

11. Subsurface drainage

All subsurface drainage from a swimming pool, spa or hot tub shall be directed in a manner so as to prevent sewage from being siphoned, flooded or otherwise discharged into said swimming pool.

12. Surface drainage

All areas immediately surrounding the pool, spa or hot tub shall have positive drainage away from the structure or shall be routed to a pool gutter as applicable. Drainage shall not be directed to adjoining lots or properties or interfere with existing and/or natural drainage patterns.

13. Pool Alarms

A. Every swimming pool that is installed, constructed or substantially modified after December 14, 2006 must be equipped with an approved pool alarm which:

1. Is capable of detecting a child entering the water and giving an audible alarm when it detects a child entering the water;
2. Is audible poolside and at another location on the premises where the swimming pool is located;
3. Is installed, used and maintained in accordance with the manufacturer's instructions;
4. Is classified to reference standard ASTM F2208 entitled *Standard Specification for Pool Alarms*; and
5. Is not an alarm device which is located on person(s) or which is dependent on devices located on persons(s) for its proper operation.

B. A pool alarm must be capable of detecting entry into the water at any point on the surface of the swimming pool. If necessary to provide detection capability at every point on the surface of the swimming pool, more than one pool alarm must be installed.

C. Pool alarms are not required in:

1. A hot tub or spa equipped with a safety cover classified to reference standard ASTM F1346 (2003).
2. Any swimming pool (other than a hot tub or spa) equipped with an automatic power safety cover classified to reference standard ASTM F1346 (2003).

14. Abandonment of pool

Should the owner abandon a swimming pool, the area occupied by the swimming pool shall be returned to its original grade and approximately to the same condition as before the swimming pool was constructed and the owner shall notify the Zoning/Code Enforcement Officer of the abandonment so that an inspection of the site may be made and the records of the permit marked accordingly.

SECTION 29. HOME OCCUPATIONS

1. Purpose

The intent of regulations governing home occupations is to protect the character of the surrounding neighborhood, particularly adjacent residential uses, from intrusions and nuisances created by operating businesses in a residential area, while recognizing the needs of certain residents and community benefits of allowing certain types of work in the home. The regulations ensure that the home occupation remains subordinate to the residential use and that the residential viability of the dwelling is maintained. The regulations recognize that many types of jobs can be done in a home with little or no effects on the surrounding neighborhood.

2. Operational Regulations

- A. Hours: Customers may visit the site only during the hours of 6:00 a.m. to 10:00 p.m.
- B. Nonresident employees: No more than two nonresident employees are permitted.
- C. Retail sales: retail sales of goods must be entirely accessory to any services provided on the site.
- D. Traffic: The business shall not generate traffic in any greater volume than would normally be expected in a residential neighborhood.
- E. Parking: One off-street parking space shall be provided for each client that visits the site at any one time.

3. Site-related Standards

- A. Spatial limitations: The home business shall not utilize more than 25% of the gross floor area of the dwelling unit if located therein or, alternatively, be in excess of 400 square feet of any accessory building if located therein.
- B. Outdoor activities: All activities must be in completely enclosed structures. Exterior storage or display of goods or equipment is prohibited.
- C. Appearance of structure and site: The dwelling and site must remain residential in appearance and characteristics. Internal or external changes which will make the dwelling appear less residential in nature or function are prohibited. Examples of such prohibited alternations include construction of parking lots, paving of required setbacks, or adding commercial-like exterior lighting.
- D. Environmental performance: The home occupation shall produce no noise, vibration, glare, objectionable fumes or electrical interference detectable to normal sensory perception on adjacent lots.
- E. A home occupation shall not display or create outside the building any evidence of the home occupation, except such sign as may be permitted under the requirements of these regulations.

SECTION 30. DUMPS AND JUNKYARDS

1. Dumps

No dump shall be established hereafter and no garbage, rubbish, refuse or other waste material shall be dumped or deposited in any area within 500 feet from any highway, lake, stream or property line; or 500 feet from an existing dwelling. A permit for any existing dump shall be obtained from the Town Board, subject to any additional regulations the Board may prescribe and to any conditions that the Board may impose in connection with a particular permit.

2. Junkyards

No new junkyards shall be established hereafter within the Town of Amsterdam. Existing junkyards must conform to all regulations in New York State General Municipal Law Article 6, Section 136 and be maintained no closer than 200 feet from any highway or property line. All existing junkyards must obtain an annual permit from the Town Board subject to any additional regulations the Board may prescribe and to any conditions that the Board may impose in connection with a particular permit. The storing or abandonment of two or more unregistered, old, or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether or not for the purpose of resale of used parts therefrom, shall be deemed to be a junkyard. Any of the uses referred to in this Section shall

be subject to the requirement that such dumping or junkyard will not be objectionable by reason of dust, fumes, odors, smoke, vermin or otherwise detrimental to the public health or safety and will not interfere with drainage so as to be injurious to adjacent land or buildings.

SECTION 31. SIGNS

1. Purpose and Intent

The purpose of this section is to promote and protect the public health, welfare and safety by regulating existing and proposed advertising, outdoor advertising signs and signs of all types. It is intended to provide for maximum visibility, to prevent unreasonable distraction of operators of motor vehicles, to prevent confusion with regard to traffic lights, signs or signals, to promote maximum safety, comfort and well being of the users of the highways, to protect property values, to create a more attractive economic and business climate, to enhance and protect the physical appearance of the community, to preserve the scenic and natural beauty of designated areas and to provide a more enjoyable and pleasing community.

2. Signs Allowed Without Permit Requirements

The following signs are permitted without a permit, providing such signs comply with the General Regulations of this Section:

- A. Signs posted by governmental agencies or required by governmental law, order or regulations.
- B. Signs incidental to the legal process.
- C. Historical tablets, memorial plaques or emblems installed by governmental agencies, religious or recognized non-profit organizations, not to exceed six square feet.
- D. Transportation signs, including bus stops, etc. not to exceed two square feet.
- E. Flags or emblems of religious, educational or governmental organizations or individuals shall be permitted and shall be flown from supports of the buildings or grounds being occupied by the organization or an individual.
- F. Signs necessary for the identification, operation or production of public utility.
- G. On-premises directional signs for the convenience of the general public, identifying public parking areas, loading zones, entrances and exits and similar signs, internally illuminated or non-illuminated, not to exceed four square feet per face. Business names or personal names shall be allowed, not to include advertising messages. A six foot maximum height shall be allowed.
- H. Warning, private drive, posted or no trespassing signs, not to exceed two sq. ft. surface area.

- I. Signs which are an integral part and advertise only the contents of vending machines and which are located within the profile of such vending machines, such as gasoline pumps and milk machines, not to exceed two square feet.
- J. On-premises signs which are not visible from any public street or adjoining and abutting properties.
- K. Signs advertising the sale, lease or rental of the premises upon which the sign is located, to be non-illuminated.
 - 1. R zones: A total of two signs per premise allowed, each sign not to exceed six square feet.
 - 2. B1, B2 or M1 zones: One sign, not to exceed fifty sq. ft. or two signs, not to exceed twenty-five sq. ft. each. Setbacks from all property lines shall be a minimum of fifteen feet.
 - 3. Signs shall be removed by three days after the sale, lease or rental of the premises.
- L. Project signs, non-illuminated, denoting the developer, architect, engineer, sub-contractors or contractor on the premises where construction, repair, or renovation is in progress. Each project shall be permitted one sign not to exceed fifty sq. ft. in surface area, to be removed upon completion of project but not to be in place longer than two years. Setbacks from all property lines shall be a minimum of fifteen feet.
- M. One double-faced, free standing sign and one single faced attached sign for professional offices (such as physician, dentist, architect, engineer, surveyor or lawyer) and permitted home occupations, not to exceed two sq. ft. surface area per face, stating name and vocation only.
- N. Name and number plates, identifying residents, mounted on house, apartment or mail box, not to exceed one sq. ft.
- O. Lawn signs identifying residents, not to exceed one sq. ft. surface area, or two sq. ft. if double faced. Signs are to be non-illuminated except by a light which is an integral part of a lamp post if used as a support, with no advertising message thereon.
- P. Private-owner merchandise sale signs, on premises only, for garage sales and auctions, not to exceed four sq. ft. for a period not to exceed seven days.
- Q. Two signs advertising farm products, each not exceeding six sq. ft. in area, may be displayed on the property but only when such products are on sale.

3. Temporary Signs

All signs of a temporary nature, such as political posters, banners, promotional devices and other signs of a similar nature may be granted a temporary permit for a period not to exceed sixty days, provided that such signs are not placed in a position that will obstruct or impair

vision or traffic or in any manner create a hazard or disturbance to the health and welfare of the general public. Only one promotional sign for product or service advertising with changeable type lettering is allowed per business and shall be displayed within 15 feet from the store building. Businesses in shopping centers may display this type of sign in the store window only. A fee shall be paid upon the issuance of a permit for such sign or group of identical signs, and a cash deposit shall be held in escrow by the Town Clerk to insure the removal of such sign or signs at the expiration of the permit. All fees and deposits shall be in amounts indicated in the Town Schedule of Fees as adopted by the Town Board.

The Zoning/Code Enforcement Officer, after seven days written notice to the permit holder to remove such sign or signs, and after the failure of the permit holder to do so, shall cause said sign or signs to be removed, and the cash deposit shall be forfeited to help defray the cost of removal. The seven day written notice shall be computed from the date of mailing of said notice and the notice shall be directed to the permit holder at the address provided to the Zoning/Code Enforcement Officer by the permit holder on the application for the permit.

4. General Regulations

The following shall apply to all signs:

- A. No new off-premises advertising signs shall be permitted.
- B. Illumination: All illuminated signs shall employ only lights emitting a light of constant intensity and no sign shall be illuminated by or contain flashing, intermittent sequences or moving lights. No bare lamps, bare bulbs, or fluorescent tubes over forty watts shall be allowed. No bare lamps or bare bulbs on a string shall be allowed. The provision of this section shall not be applied so as to prohibit a sign changing to show date, time or temperature. No sign shall use reflective material which sparks or glitters.
- C. Hazard or Nuisance: No sign or illumination therefrom shall be so placed as to be a hazard to traffic or the public generally, or a nuisance or annoyance to the residents or occupants of any other building or premises. Nor shall any sign project into any public right-of-way.
- D. Signs using red, yellow or green lights shall not be placed within 100 feet of traffic control signals.
- E. Signs or advertising matter of an indecent or obscene nature shall be prohibited.
- F. No misleading advertising shall be allowed.
- G. Signs using wording such as stop, look danger or words of a nature, which may tend to confuse, mislead or resemble any governmental or duly authorized sign, shall be prohibited.
- H. No projecting sign shall be erected or maintained from the face of a building a distance of more than four feet.

- I. Any advertising which uses a series of two or more signs placed along a street or highway, carrying a single advertising message, part of which is contained on each sign, shall be prohibited.
- J. All signs and parts thereof shall be stationary and shall not be allowed to simulate movement. Flags, banners, pinwheels, posters, balloons, streamers, searchlights or other similar fluttering, moving, or revolving devices for the purpose of advertising or attracting attention shall be prohibited, except as may be permitted under Temporary Signs.
- K. No permanent sign erected or maintained in the window of a building and visible from any public or private street or highway shall occupy more than 25% of the area of said window.
- L. Only one sign designating credit cards acceptable at any one premises may be displayed. Said sign shall be no more than six square feet in area. Said sign area shall not be computed as part of allowable sign footage.
- M. Portable signs shall not be allowed. Vehicles parked on the street or in locations of private property which have attached thereto or suspended therefrom any advertising sign shall not be allowed. This section shall not apply to permanent business identification on vehicles.
- N. Signs which project above any roof ridge line or parapet line shall not be permitted. Signs which change the profile of the building shall not be permitted.
- O. The text on each permanent business sign shall be limited to the following:
 - 1. The name or assumed name of the owner of the property on which it is located.
 - 2. Principal business or businesses conducted on the property.
 - 3. Brief indication of the products or services available.
 - 4. (No) Vacancy.
 - 5. Changeable type may be incorporated into this type of sign.
- P. A wall sign shall not project more than fifteen inches from the face of the building wall nor extend beyond the outer edge of the wall to which it is attached.
- Q. Advertising Panels shall meet the following requirements:
 - 1. No new Advertising Panels shall be constructed.
 - 2. Standard Outdoor Advertising Panels may be continued and maintained in any B1 and M1 Zone, but may not be double decked, over 25' in height, and shall employ only lights emitting a light of constant intensity.

5. Signs For Which Permits Shall Be Required

A. No sign or other device for advertising purpose shall be erected, established, constructed, reconstructed, enlarged, extended, moved or structurally altered after the effective date of this section without application for and issuance of a permit, except as provided for by this Section.

B. Setback:

1. Free Standing Signs - The setback for free standing signs shall be a minimum distance of fifteen feet from any property line.

C. Size:

1. Free Standing Signs - The surface area of one side shall not exceed 75 sq. ft. except for Shopping Centers which shall be permitted 100 sq ft.

2. Signs attached to buildings (wall signs and permitted roof signs) - The surface area of signs attached to any building shall not exceed 10% of the area of the wall or roof to which such sign is attached. A minimum area of 30 sq. ft. shall be allowed in any case. Size of wall signs and permitted roof signs will be further regulated by the distance of the buildings from the front property line. Buildings which are located within or at a distance of 100 linear feet from the front property line are permitted to have a wall sign or a permitted roof sign of up to 100 sq. ft. Buildings with more than 100 feet setback from the front property line will be permitted an additional ten sq. ft. of sign surface for each ten additional ft. of setback to a maximum sign size of 500 sq. ft.

3. In order for a roof sign to be permitted, there must be compliance with all other provisions of this law. If a roof sign is permitted under this law with respect to a particular building or structure, only either a roof sign or a wall sign shall be allowed, not both, and the total permitted surface area of either such roof sign or wall sign shall be as set forth in subdivision (2) above.

D. Placement and Number:

1. Free standing signs shall be allowed in B1, B2 and M1 zones only, except as provided for in this local law.

2. Signs attached to buildings shall be allowed in B1, B2 and M1 zones only, except as provided for in this local law.

3. A business located on a parcel of property shall be granted a permit for two signs: One free standing, double-faced sign and one sign attached to a building. A building on a street corner lot or contiguous to two streets shall be allowed two building signs and one free standing sign. Where a building is situated on a corner lot, one wall sign will be allowed on each side of the building facing a public street.

4. Shopping Center: One free standing sign, of the planter type, the height not to exceed 25 feet and the surface area not to exceed 100 square feet, denoting the name of the shopping center or plaza shall be permitted. Each occupant of a shopping center shall be permitted one wall sign on the portion of the exterior wall and a sign on the shopping center or plaza free standing sign. All signs shall be coordinated as to material, shape, design, lettering color and/or decorative elements.
5. Any retail business or businesses occupying a building which comprises a minimum of 30,000 sq. ft will be allowed the same type of sign as a shopping center.
6. Hotels, motels, golf clubs, ski areas, boat storage, amusement centers and other substantial facilities in all zones shall be permitted two signs of fifty sq. ft. maximum each.
7. Apartment complexes in all zones be permitted one sign for each entrance on a different street or highway, each sign not to exceed fifty sq. ft. Apartment complexes shall also be permitted one sign, to include changeable text, not to exceed six sq. ft.

E. Height:

1. No free standing sign shall exceed a height greater than the following:
 - a. B2 zones - 6 feet
 - b. B1 and M1 zones - 15 feet except for shopping centers and retail businesses comprising 30,000 sq. ft., which shall be 25 feet.

The height of such signs shall be measured from grade level or entry level of the building or structure, whichever is lower, and shall include supporting structures.

6. Permits

- A. Application for Permit - Application for the permit shall be made in writing in triplicate upon forms prescribed and provided by the Town Clerk to the Zoning/Code Enforcement Officer, and shall contain the following information:
1. Name, address, and telephone number of applicant and owner of premises.
 2. Location of building, structure or land to which or upon which the sign is to be erected.
 3. A detailed drawing or plan, to scale showing the area (size) and the lettering and/or pictorial matter composing the sign; a description of the construction details of the sign; method of illumination, if any; the location of the sign on any building, structure or land, and its position in relation to nearby buildings, structures, lot boundaries and any private or public streets or highways; and any other information deemed necessary by the Zoning/Code Enforcement Officer.

4. Written consent of the owner of the building, structure or land to which or on which the sign is to be erected, in the event the applicant is not the owner thereof.
- B. Fees - A fee shall be paid to the Town Clerk for each sign permit issued as set forth in the Town Schedule of Fees. Where work for which a permit is required by this law is started or proceeded with prior to obtaining a permit therefore, the fees specified in the fee schedule shall be doubled, but the payment of such double fees shall not relieve any persons from fully complying with the requirements of this law in the execution of the work nor from the penalties prescribed in this law.
- C. Issuance of Permit - It shall be the duty of the Zoning/Code Enforcement Officer, upon the filing of an application for a permit to erect a sign, to examine such plans, specifications and other data submitted to him with the applications, and if necessary, the building or premises upon which it is proposed to erect the sign or other advertising structure. If it shall appear that the proposed sign is in compliance with all the requirements of this law and other laws and ordinances of the Town of Amsterdam and that the necessary fee has been paid, the Zoning/Code Enforcement Officer shall within ten days, issue a permit for the erection of the proposed sign. If the sign authorized under such permit has not been completed within twelve months from the date of the issuance of such permit, the permit shall become null and void.

7. Construction and Maintenance

All signs in the Town shall meet the following requirements:

- A. Internally Illuminated Signs: Such signs shall be constructed in conformance with the "Standards for Electric Signs (U.L. 48) of Underwriters Laboratories, Inc." and bear the label of the Underwriters Laboratories, Inc.
- B. Wind Pressure Requirements: All free standing signs shall be designed and constructed to withstand a wind pressure of not less than 30 pounds per sq. ft. of area.
- C. General Maintenance: The Zoning/Code Enforcement Officer shall require proper maintenance of all signs and shall inspect every sign within 30 days after it is erected. All signs, together with all of their supports, braces, guys and anchors shall be kept in repair, in safe condition and in a proper state of preservation.
- D. All illuminated signs shall be inspected and certified by the New York Board of Fire Underwriters if it does not bear the U.L. label.

8. Penalties

- A. Penalty for Failure to apply for Sign Permit: Any person who proceeds to erect, re-erect, construct or structurally alter any sign, without first applying for and obtaining the necessary permit, shall be considered in violation of this law and shall be liable for a fine of not less than \$50.00 or more than \$200.00 for each offense. Each day that the violation is permitted to exist shall constitute a separate offense.

- B. Penalty for Failure to Comply with Law: In case of a violation of this law, the Town and its officers may, in addition to any other remedies conferred by law or ordinance, institute any appropriate proceedings to prevent unlawful erection, construction, reconstruction, or alteration of any sign.
- C. Penalty for Failure to Maintain: The Zoning/Code Enforcement Officer may order the removal of any sign that is not maintained in accordance with the law.
- D. Removal of Certain Signs: Any sign now or hereafter existing which no longer advertises a bona fide business conducted, or products, sold, shall be taken down and removed by the owner, agent or person having beneficial use of such building, structure or lot upon which such sign is located, within a period of 30 days after written notification from the Zoning/Code Enforcement Officer, after which period the Zoning/Code Enforcement Officer is hereby authorized to cause removal of such sign, and any expenses incidental thereto shall be chargeable to the owner of the buildings, structure or lot upon which the sign is located.
- E. Unsafe and Unlawful Signs: If the Zoning/Code Enforcement Officer shall find that any sign or other advertising structure regulated herein is unsafe, insecure, or is a menace to the public, or has been constructed or erected or is being maintained in violation of the provisions of this or any other ordinance, law or statute, he shall give written notice to the owner of the sign and/or property thereof. If the owner fails to alter the structure so as to comply with such ordinance, law or statute, and/or remove such sign or structure, whichever is applicable, within 30 days after such notice, the Zoning/Code Enforcement Officer shall be authorized to cause removal of such sign and any expenses incidental thereto shall be chargeable to the owner of such sign and/or premises upon which the sign is located. The Zoning/Code Enforcement Officer may cause any sign or structure of a sign which is an immediate peril to persons or property to be removed summarily and without notice with the expenses charged to the owner.

9. Enforcement

This section shall be enforced by the Zoning/Code Enforcement Officer or his duly authorized assistant(s), who shall be appointed by the Town Board. No permits for signs shall be issued by him, except where all of the provisions of this law have been complied with. It shall be the duty of the Zoning/Code Enforcement Officer to issue a sign permit, provided he is satisfied that the sign conforms in all respects with the requirements of this section, and that all other reviews and actions, if any, called for in this law have been complied with and all necessary approvals secured therefor. When the Zoning/Code Enforcement Officer is not satisfied that the applicant's proposed sign will meet the requirements of this law, he shall refuse to issue a sign permit, and the applicant may appeal to the Board of Appeals for a reversal of the Zoning/Code Enforcement Officer's decision.

SECTION 32. KENNELS AND STABLES

A. Kennels

1. Kennels shall require a Special Use Permit issued by the Planning Board. As a condition of the Special Use Permit, no objectionable or offensive noise or noxious odors shall be permitted beyond the boundaries of the kennel parcel.
2. In the R-1 zone, a 10 acre minimum lot size and 200' side and rear yard setbacks are required. In the Agricultural zone, a 5 acre minimum lot size and 50' side and rear yard setbacks are required.
3. Adequate provision for the storage and removal of all animal wastes shall be made and all animal waste shall be stored, treated and or removed in such a manner as not to create a hazard to public health. In particular, no animal waste storage area shall be located within 300 feet of any residence or street right-of-way.
4. During Site Plan Review the Planning Board may impose additional provisions and require that adequate screening, landscaping, and fencing be provided, especially for exercise areas or ancillary facilities.

B. Equine Zoning Regulations

1. Title

This section shall be known and may be cited as the Equine Zoning Regulations.

2. Purposes and Intent

- A. The purpose of this section is to regulate the keeping, possession, and maintenance of equine livestock in the developed residential areas of R-1 and those of R-2 that are owner occupied where residents wish to retain and preserve a semi-rural environment and to provide criteria for replacement of legal nonconforming horses, through the use of Special Use Permits, granted by the Planning Board.
- B. The intent 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 located, require special consideration so that they may be properly located and planned with respect to the objectives of this Zoning Law, their effect on the surrounding properties and community character, and the ability of the Town to accommodate the growth resulting from the proposed use without undue adverse effect on the Town.

3. Applicability

- A. Any horse or equine animals in existence at the date of the adoption of this law shall be permitted to remain under the authority of a legal nonconforming use as specified under Article X. Any new horses shall be permitted with a Special Use Permit.
- B. All horses and equine animal locations and facilities (existing/proposed) shall be reviewed and approved by the Zoning/Code Enforcement Officer or designee to ensure compliance with the herein adopted health standards, or as determined by the Special Use Permit.

4. Special Use Permit

- A. While recognizing that certain keeping, possession, and maintenance of horses may be desirable in the Town this can cause certain problems or difficulties. Consequently, such uses will be controlled by a special use permit procedure which requires additional regulations designed in order to mitigate such problems or difficulties. The special uses for which conformance to additional standards is required by this section shall be deemed to be the demonstration of permitted uses in their respective districts, subject to adequate proof of the satisfaction of the requirements and standards set forth herein. All such uses are declared to possess characteristics of such unique and special forms that each specific application shall be considered an individual case, and the grant of a special use permit for one use in a zoning district shall be limited to its own facts and circumstances, and shall have no precedential effect entitling or implying that a similar use would be capable of satisfying the requirements and standards set forth herein. The Planning Board shall comply with SEQRA 6 NYCRR Part 617 when reviewing an application for a special use permit.
- B. An application by the owner occupied resident to the Planning Board shall set forth and shall also include a plot plan which shall show:
 - 1. The dimensions of the property and number of square feet.
 - 2. The location of all improvements on the property.
 - 3. The proposed location of a shed/stable.
 - 4. The outdoor area where the horse(s) will be permitted to graze.
 - 5. The location of residences on all abutting properties.
 - 6. The proposed fencing.
 - 7. The proposed storage facility for horse manure and disposal plan for said horse manure.
 - 8. The proposed location of the hay, feed, or other food stock for the horses.
 - 9. Such other information as the Board of Appeals may request.

- C. The application shall be accompanied by a writing signed by each owner and the occupant of the subject property and acknowledged in the form required for the recording of a deed, containing a consent, in form and substance satisfactory to the Board of Appeals, that so long as any stable shall continue to remain on the property or so long as any horse is kept, maintained, or stabled on the property, the Zoning/Code Enforcement Officer or any other official, person or agency or employee designated by the Planning Board or any society duly chartered for the prevention of cruelty to any animals or for the regulation of animal treatment shall have the right to enter upon the premises or any part thereof for the purposes of making such inspection and investigation as the Town may deem appropriate, and said consent shall be irrevocable.
- D. The applicant, at his/her own expense, shall be required to notify abutting property owners as well as property owners within 500 feet of the subject property, whichever is greater, of the Special Use Permit Application and Public Hearing, in writing, on a form provided at Town Hall. The notice shall be sent by certified mail, return receipt requested, and proof of such mailing shall be presented to the Board at the public hearing.
- E. The applicant shall construct, plant and maintain such landscaping and/or fencing as the Planning Board shall direct.

5. Keeping of Horses:

- A. It shall not constitute a violation of this section for any person to keep, maintain, house or possess a horse, provided that:
 - 1. Not more than one (1) horse is kept, maintained, housed, or possessed for each two (2) acre plot or parcel, exclusive of domestic buildings. The required 2 acres of land per horse shall have a maximum average slope of ten percent (10%).
 - 2. Stable: For the keeping of one or two horses, the construction of a stable on the plot or parcel must comply with the following dimensions: A South facing three-sided structure, fifteen feet by twenty feet (15' x 20'), with a two pitched roof. No stable shall be erected or maintained within one hundred (100) feet of any side or rear property line and shall be seventy-five (75) feet from the front property line. For each additional horse there shall be a proportionate increase in the size of the stable. The appearance of the stable should be in keeping with the character of the neighborhood.
 - 3. All manure shall be stored, treated and/or removed in such a manner as to not create or cause a noxious or offensive odor or dust or cause the presence of or attract any vermin, rodents or other animals shall not be permitted to remain in, on, or upon the premises. Storage and disposal of animal manure must meet all applicable standards of SEQRA. Under no circumstances shall a horse be kept within 50 ft. of any well.
 - 4. All grain, feed, or other food stock for the horses, other than hay bales, shall be kept in a rodent proof container.

5. All storm water runoff and other surface water or drainage shall be contained on the premises, to the maximum extent practicable.

6. Fences:

a. Barbed wire fences shall not be permitted.

b. Electrification of a fence may be permitted the greater of one hundred fifty (150) feet from the nearest dwelling on an adjoining lot, or ten (10) feet from the abutting property line.

B. Each horse kept, maintained, or housed on the premises shall, at all times, be owned by a member of the family of the owner occupied premises, and no other horse shall, at any time be kept, maintained or boarded on the premises. The hiring of or the commercial use of horses shall be prohibited.

C. Dead equine livestock must be disposed of in a proper manner as directed by local or state law. Dead equine livestock shall not be buried on the property.

6. Penalties for Offenses:

A. Any violation of the above conditions, or other conditions which may be imposed by the Planning Board - for the issuance of a Special Use Permit may result in revocation of the permit, upon a showing that the holder of the permit has been notified of the violation and has refused or neglected to correct the violation.

B. Any fine for violation of the above conditions will be issued pursuant to state law.

SECTION 33. ADULT ENTERTAINMENT ESTABLISHMENTS

Findings; purpose. In the development and execution of this Local Law, it is recognized that Adult Entertainment Establishments, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby having a deleterious effect upon the adjacent area. Special regulation of such uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood or pose a threat to the welfare and safety of the public.

- 1. Permitted Uses:** All Adult Entertainment Establishments, as defined below, shall be allowed only in the M1 Zone.
- 2. Underlying Zoning Regulations:** The requirements of the underlying zoning districts shall apply unless the provisions set forth in this Section are deemed more stringent than the underlying requirements.
- 3. Definitions.** As used in the Town of Amsterdam Zoning Law, originally adopted in 1972, with revisions thereon, the following terms shall have the meanings indicated:

ADULT ENTERTAINMENT ESTABLISHMENT: Any establishment or business involved in the dissemination of material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, including but not limited to adult bookstores, adult theaters, and adult cabarets.

ADULT BOOKSTORE: An establishment having, as a substantial or significant portion of its stock-in-trade books, magazines, publications, tapes, films and other periodicals which are distinguished or characterized by their emphasis on matter depicting or relating to sexual activity or specific anatomical areas, as defined below, for observation by patrons therein.

ADULT CABARET:

1. An establishment devoted to adult entertainment either with or without a liquor license, presenting material distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas; and
2. A cabaret that features topless dancers, go-go dancers, strippers, male or female impersonators, or similar entertainers for observation by patrons.

ADULT MINI MOTION PICTURE THEATER: An enclosed building with capacity for less than fifty persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas.

ADULT MOTION PICTURE THEATER: An enclosed building with a capacity for fifty or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas.

HARMFUL TO MINORS: That quality of any description or representation, in whatever form, or nudity, sexual conduct, sexual excitement or sadomasochistic abuse when it:

1. Predominantly appeals to the prurient, shameful or morbid interest of minors;
2. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; or
3. Is, when taken as a whole, lacking in serious literary, artistic, political or scientific value for minors.

KNOWINGLY: Having a general knowledge of, or reason to know, or a belief or grounds for belief, which warrants further inspection or inquiry or both:

1. The character and content of any material described herein, which is reasonably susceptible to examination by the defendant; and
2. The age of the minor; provided, however, that an honest mistake shall constitute an excuse from liability hereunder, if the defendant made a reasonably, bona fide attempt to ascertain the true age of such minor.

MATERIAL: Anything tangible, capable of being used for or adapted to arouse interest, whether through the medium of reading, observation, sound or in any other manner.

MINOR: A person less than seventeen (17) years of age.

OBSCENE: Any material or performance is “obscene” if the average person, applying contemporary community standards, would find that, considered as a whole, its predominant appeal is to the prurient interest in sex and depicts or describes, in a patently offensive manner, actual or simulated sexual intercourse, sodomy sexual bestiality, masturbation, sadism, masochism, excretion or lewd exhibition of the genitals and, as considered as a whole, it lacks serious literary, artistic, political and scientific value. Predominant appeal shall be judged with reference to ordinary adults, unless it appears from the character of the material or the circumstances of its dissemination to be designed for children or other specially susceptible audiences.

PROMOTE: To manufacture, issue, sell, give, provide, lend, mail, deliver, transmute, publish, distribute, circulate, disseminate, present, exhibit or advertise or to offer or agree to do the same.

SADOMASOCHISTIC ABUSE: Actual or explicitly simulated flagellation or torture by or upon a person who is nude or clad in undergarments, a mask of bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed.

SEXUAL CONDUCT: Actual or explicitly simulated acts of masturbation, homosexuality, sexual intercourse or physical contact, in a an action of apparent sexual stimulation of gratification with a person's clothed or unclothed genitals, pubic area, buttocks, or if such be female, breasts.

SEXUAL EXCITEMENT: The condition of human male or female genitals when in a state of sexual stimulation or arousal.

SEXUALLY EXPLICIT NUDITY: A state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the areola consistent, or the depiction of covered or uncovered male genitals in a discernibly turgid state.

SPECIFIED ANATOMICAL AREAS:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks and female breasts below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES:

1. Human genitals in a state of sexual stimulation or arousal;
 2. Acts of human masturbation, sexual intercourse or sodomy; and
 3. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.
- 4. Proximity to residential dwellings or other Adult Entertainment Establishments.** It shall be unlawful to hereafter establish any Adult Entertainment Establishments within one thousand (1000) feet of any building containing residential dwellings or rooming unit or to establish any Adult Entertainment Establishments within three hundred (300) feet of any other Adult Entertainment Establishments.
- 5. Proximity to School and School bus stops.** It shall be unlawful to hereafter establish any Adult Entertainment Establishments within one thousand (1000) feet of the real property line of any public, private or parochial school or within one thousand (1000) feet of a bus stop for the picking up and dropping of school children.
- 6. Proximity to libraries, parks and places of worship.** It shall be unlawful to hereafter establish any Adult Entertainment Establishments within one thousand (1,000) feet of the nearest property line of any public or private, library, park or playground and at least one thousand (1000) feet from the nearest property line of any church, convent, monastery, synagogue or other place of worship.

7. Penalties for offenses.

Any person who violates any of the provisions of this Local Law shall be guilty of violation and subject to a fine not to exceed One Thousand (\$1,000.00) Dollars. Each day during any portion in which any violation of this Local Law is committed, permitted or continued shall constitute a separate offense.

8. Unlawful to promote. It shall be unlawful, intentionally and knowingly for any person to promote or possess with intent to promote, any obscene material. Such an offense shall be classified as a misdemeanor, punishable as authorized by state law. Each day that said violation continues may be treated as a separate offense.

9. Presumptive evidence. A person who promotes obscene material or possesses the same with intent to promote it, in the course of his/her business, is presumed to do so with knowledge of its content and character.

10. Presumptions.

- A. A person who promotes or wholesale promotes obscene material or possesses the same with intent to promote or wholesale promote it, in the course of his/her business, is presumed to do so with knowledge of its content and character.
- B. A person who possesses six (6) or more identical or similar obscene articles is presumed to possess them with intent to promote the same.

11. Unlawful acts.

- A. It shall be unlawful for any person knowingly to sell or loan for monetary consideration to a minor:
 - 1. Any picture, photograph, drawing, sculpture, video cassette, motion-picture film or similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors; or
 - 2. Any book, pamphlet, magazine, or printed matter, however reproduced, or sound recording which contains any manner enumerated in Subsection A.1 of this section or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to minors.
- B. It shall be unlawful for any person to knowingly sell a minor an admission ticket or pass or to knowingly admit a minor to any area or premises whereon there is exhibited a motion picture, show or other presentation which, in whole or in part, depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors; or to exhibit any such motion picture at any such area or premises which is not designated to prevent viewing from any public way of such motion picture by minors not admitted to any such area or premises.

- C. It shall be unlawful for any minor to falsely represent to any person mentioned in Subsection A or B hereof, or to his/her agent, that such minor is seventeen (17) years of age or older, with the intent to procure any material set forth in Subsection A or with intent to procure such minor's admission to any motion picture, show or other presentation, as set forth in Subsection B.
- D. It shall be unlawful for any person to knowingly make a false representation to any person mentioned in Subsection A or B hereof, or to his/her agent, that he/she is the parent or guardian of any minor or that any minor is seventeen (17) years of age or older with the intent to procure any material set forth in Subsection A or with the intent to procure such minor's admission to any motion picture, show or other presentation, as set forth in Subsection B.
- E. It shall be unlawful for any person to knowingly to exhibit, expose or display in public, at newsstands or at any other area of a public or commercial establishment frequented by minors or where minors are or may be invited as part of the general public:
 - 1. Any picture, photograph, drawing, sculpture, motion-picture film or similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse which is harmful to minors; or
 - 2. Any book, pamphlet, magazine or printed matter, however reproduced, or sound recording which contains any matter enumerated in Subsection E.1 of this section or explicit or detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as whole, is harmful to minors.

12. Exceptions. Nothing contained in this Local law shall be construed to apply to:

- A. The purchase, distribution, exhibition or loan of work of art, book, magazine or other printed or manuscript material by any accredited museum, library, school or institution of higher learning.
- B. The exhibition of performance of any play, drama, tableau or motion picture by any theater, museum, school or institution of higher learning, either supported by public appropriation or which is an accredited institution supported by private funds.
- C. Persons who may possess or distribute obscene matter or participate in conduct otherwise prescribed by this Local Law when such possession, participation, distribution or conduct occurs in the course of law enforcement activities or in the course of bona fide scientific, educational or comparable research or study or like circumstances of justification.

13. Enforcement. The Zoning/Code Enforcement Officer is charged with the enforcement of this Section in the same manner and capacity as he or she is charged with the enforcement of the Town of Amsterdam Zoning Law, originally adopted in 1972, with revisions thereon.

SECTION 34. OUTDOOR FURNACES

1. Purpose:

An Outdoor Furnace is an appliance or system installed out of doors for the primary purpose of fuel combustion to produce energy to heat interior spaces or water sources. Although outdoor furnaces may provide an economical alternative to conventional heating systems, concerns have been raised regarding the safety and environmental impacts of these heating devices, particularly the production of offensive odors and potential health effects of uncontrolled emissions. This section is intended to ensure that outdoor furnaces are utilized in a manner that does not create a nuisance and is not detrimental to the health, safety and general welfare of the residents of the Town.

The Environmental Protection Agency has launched a voluntary emission reduction program for the outdoor wood furnace industry. This program encourages manufacturers to make cleaner and more efficient Outdoor Furnaces which produce less particulate emissions. Outdoor Furnaces which are EPA Hydronic Heater (HH) Phase 1 Program Qualified are 70% cleaner than conventional models and emit less than 0.6 lbs/million Btu. Outdoor Furnaces which are EPA HH Phase 2 Program Qualified are 90% cleaner than conventional models and emit less than 0.32 lbs/million Btu. In order to protect the air quality of our community, the Town of Amsterdam highly encourages installation of these cleaner models, rather than conventional furnaces which produce much greater emissions.

2. Permit Required:

No person shall install a new Outdoor Furnace within the Town of Amsterdam without first having obtained a permit from the Zoning/Code Enforcement Officer. Application for a permit shall be made to the Zoning/Code Enforcement Officer on the forms provided. The owner of any new Outdoor Furnace shall produce the manufacturer's manual or installation instructions for the Zoning/Code Enforcement Officer to review prior to installation.

3. Existing Outdoor Furnaces:

Any Outdoor Furnace in existence on the effective date of this Local Law shall be permitted to remain in operation and shall not require a permit until such time as the owner replaces or upgrades the furnace, the property is sold or transferred to a new owner, or a valid written complaint is received, reviewed and determined to be a legitimate complaint by the Zoning/Code Enforcement Officer. In such case, the outdoor furnace owner shall be advised of the complaint, supplied with operating recommendations, and directed to make adjustments as required to correct the problem. All other provisions of this chapter shall apply to existing outdoor furnaces with the exception of required setbacks and stack heights.

4. Specific Requirements:

A. Permitted Fuel

Only dry seasoned firewood, natural untreated lumber, wood pellets, corn products, biomass pellets or other listed fuels specifically permitted by the manufacturer's instructions are permitted to be burned in an outdoor furnace. Burning of any and all other materials is strictly prohibited, including without limitation: rubbish, garbage, paint, furniture, construction debris, waste oil, treated or painted wood, plywood, composite wood, plastics, fabrics, foam, rubber including tires, newspaper, corrugated cardboard or any paper with ink or dyes, lawn clippings or yard waste.

B. Permitted Zones

Outdoor Furnaces shall be permitted only in the A-Agriculture, R-1, and R-2 zoning districts as shown on the Town's Zoning Map.

C. Required Setbacks

Installation of new Outdoor Furnaces shall meet the following setbacks:

1. Outdoor furnaces with particulate emission limits greater than 0.6 lbs/million Btu, or with no EPA certification, shall be setback at least two hundred (200) feet from any property line, and five hundred (500) feet from the occupied building of a hospital, school, daycare center or nursing home, or from the boundary of a municipal park or recreation area.
2. A new EPA HH Phase 1 Program Qualified furnace shall be set back at least one hundred (100) feet from any property line.
3. A new EPA HH Phase 2 Program Qualified furnace shall be setback at least fifty (50) feet from any property line. Replacement of an existing outdoor furnace with a new EPA HH Phase 2 Program Qualified furnace shall be allowed in the same location as the original furnace.

D. Minimum Chimney Height

The chimney of any new or upgraded outdoor furnace shall be installed per manufacturer's recommendations and be a minimum of two (2) feet higher than the roof peak of the residence served. In addition:

1. The chimney of any new or upgraded outdoor furnace with particulate emission levels greater than 0.6 lbs/million Btu, or with no EPA certification, shall extend at least two (2) feet above the roof peak of any occupied building which is not served by the furnace and is located within five hundred (500) feet.

2. The chimney of any new or upgraded EPA HH Phase 1 Program Qualified furnace shall extend at least two (2) feet above the roof peak of any occupied building which is not served by the furnace and is located within three hundred (300) feet.
4. The chimney of any new or upgraded EPA HH Phase 2 Program Qualified furnace shall extend at least two (2) feet above the roof peak of any occupied building which is not served by the furnace and is located within one hundred (100) feet.

E. Seasonal Limitation

No person shall cause, allow or permit the operation of an Outdoor Furnace between June 1st and September 1st unless it is an EPA HH Phase 1 or Phase 2 Program Qualified furnace or it is located at least five hundred (500) feet from the nearest occupied dwelling that is not being served.

F. Spark Arrestors

All Outdoor Furnaces shall be equipped with properly functioning spark arrestors or be in conformity with manufacturer's specifications with regard to the release of sparks.

G. Installation

All Outdoor Furnaces shall be installed per the manufacturer's specifications and shall be UL listed and approved. The perimeter ground surface around the Outdoor Furnace structure shall be a non-combustible surface such as gravel, sand or a concrete pad for a distance of not less than ten (10) feet.

5. Suspension of Permit:

A permit issued pursuant to this Local Law may be reviewed, suspended or revoked by the Zoning/Code Enforcement Officer in order to protect the public health, safety and welfare of the residents of the Town of Amsterdam if any of the following conditions occurs:

- A. Malodorous air contaminants from the Outdoor Furnace are detectable outside the property of the person on whose land the Outdoor Furnace is located;
- B. The emissions from the Outdoor Furnace interfere with the reasonable enjoyment of life or property;
- C. The emissions from the Outdoor Furnace cause damage to vegetation or property; or
- D. The emissions from the Outdoor Furnace are or may be harmful to human or animal health.
- E. Violation of 6 NYCRR 227-1.3(b) opacity. Emissions from the Outdoor Furnace exhibit greater than twenty percent (20%) opacity (six minute average), except for one continuous six-minute period per hour of not more than twenty-seven percent (27%) opacity.

A suspended permit may be reinstated once the condition which resulted in suspension is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition which has previously resulted in suspension of a permit shall be considered a violation subject to the penalties provided in paragraph 9 hereof.

8. Variances

If a property owner is denied a permit for an Outdoor Wood Furnace because of an inability to comply with the setback requirements of this chapter, he can appeal to the Zoning Board of Appeals for an area variance as specified under Article XII. If the ZBA finds that extraordinary and unnecessary hardships may result from strict compliance with this Local Law, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variations will not have the effect of nullifying the intent and purpose of this Local Law or of jeopardizing the health, safety or welfare of the public. In varying any regulations, the ZBA may impose such conditions and requirements as it deems reasonable and prudent.

9. Enforcement Procedure

Violations of this section shall be subject to the penalties contained in Article XI of the Zoning Law. In addition, any permit issued pursuant to this section shall be revoked upon conviction of a second offense and the subject Outdoor Furnace shall not be eligible for another permit. The owners of premises upon which prohibited acts occur shall be jointly and severally liable for violations of this Local Law. Any fine imposed hereunder shall constitute a lien upon the real property where the Outdoor Furnace is located until paid.

10. Effect of Other Regulations

Nothing contained herein shall authorize or allow burning which is prohibited by codes, laws, rules or regulations promulgated by the United States Environmental Protection Agency, New York State Department of Environmental Conservation, or any other federal, state, regional or local agency. Outdoor Furnaces, and any electrical, plumbing or other apparatus or device used in connection with an Outdoor Furnace, shall be installed, operated and maintained in conformity with the manufacturer's specifications and any and all local, State and Federal codes, laws, rules and regulations. In case of a conflict between any provision of this Local Law and any applicable Federal, State or local ordinances, codes, laws, rules or regulations, the more restrictive or stringent provision or requirement shall prevail.

SECTION 35. SOLAR ENERGY SYSTEMS AND EQUIPMENT

1. SMALL-SCALE SOLAR ENERGY SYSTEMS

A. Purpose and Intent

1. The Town of Amsterdam recognizes that solar energy is a renewable and nonpolluting energy resource that can prevent fossil fuel emissions and reduce energy load. Energy generated from solar energy systems can be used to offset energy demand on the grid when excess solar power is generated.
2. The purpose of these regulations is to balance the potential impact on neighbors when solar collectors may be installed near their property while preserving the rights of property owners to install solar collection systems without excess regulation. These regulations are not intended to override the New York State Agriculture and Markets Law.

B. Applicability

1. The requirements herein shall apply to all solar energy system installations modified or installed after the effective date of this section.
2. Solar energy system installations for which a valid building permit has been properly issued, or for which installation has commenced before the effective date of this section, shall not be required to meet the requirements of this section, except in accordance with Subsection E, Safety. Any modification, expansion or alteration to an existing solar collector system shall be permitted only in accordance with the regulations in this section.
3. All solar energy 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.

C. Rooftop and Building-Mounted Solar Collectors

1. Rooftop and building-mounted solar collectors, including building integrated photovoltaic systems, are permitted in all zoning districts except for the Historic Overlay District. Rooftop and building-mounted solar collectors require a Building Permit issued by the Town Zoning/Code Enforcement Officer and must be shown of the plans submitted with the building permit application and shall comply with the following regulations:
 - a. Rooftop and building-mounted solar collector systems are permitted on all principal structures, and on accessory structures that meet the principal structure setbacks required in each zoning district.

- b. Height limitations for structures included in Article V, Area and Height Regulations and Schedule A shall apply.
- c. Solar collectors mounted on pitched roofs shall be installed at an angle that matches the pitch of the roof as closely as possible, shall not extend more than 18 inches from the surface of the angle of the roof, and shall not project vertically above the ridge line.
- d. Solar collectors mounted on flat roofs shall be screened from the street view to the maximum extent practicable.
- e. Rooftop units must be three feet from any chimney and shall not be permitted on any roof overhangs.
- f. Solar collectors mounted on building facades shall be an integrated with the architecture through color, texture, and rhythm.

D. Ground-Mounted and Freestanding Solar Collectors

- 1. Ground-mounted and freestanding solar collectors are permitted as Accessory Structures in all zoning districts and require a Building Permit issued by the Town Zoning/Code Enforcement Officer. Ground-mounted and freestanding solar collectors shall comply with the following regulations:
 - a. The solar collector may be located in a side or rear yard, but may not be located in a front yard.
 - b. The solar collector must have a minimum setback from all property lines a distance equal to the required setback for principal structures in its zoning district, or 1½ times the total height of the structure, whichever is greater.
 - c. The total height of the solar collector and any mounts shall not exceed 20 feet from the ground elevation when oriented at maximum tilt.
 - d. The total surface area of all ground-mounted and freestanding solar collectors on the lot shall not exceed 1,000 square feet.
 - e. Ground-mounted and freestanding solar collectors shall be screened from adjacent properties when possible and practicable through the use of fencing, landscaping or other screening that harmonizes with the character of the property and surrounding area.
 - f. In all Residential Zoning Districts (R-1, R-2, and R-M Districts), ground-mounted and freestanding solar collectors greater than 10 feet in height or 20 feet in length, or with a total surface area greater than 200 square feet in the aggregate, shall require Site Plan Review and a Special Permit issued by the Planning Board.

- g. Ground-mounted and freestanding solar collectors in the Historic Overlay District shall require Site Plan Review and a Special Permit issued by the Planning Board.
- h. The Planning Board shall hold at least one public hearing on any solar energy application requiring Site Plan Review. Notice shall be published in the Town's official newspaper, at least ten (10) days before any hearing. The applicant shall be required to mail notice of the public hearing to all landowners whose property is located within one thousand (1,000) feet of the Site Boundary, at least ten (10) days prior to the date of said public hearing. Notification shall be made by regular U.S. Mail, and proof of such mailing shall be presented to the Board at the public hearing.
- i. Solar collectors and energy equipment shall be located in a manner that reasonably minimizes shading of adjacent property and blockage for surrounding properties while still providing adequate solar access for collectors.

E. Safety

1. All solar energy systems and solar collectors must obtain a building permit and shall be designed and installed in conformance with the New York Uniform Fire Prevention and Building Code Standards that are applicable when the building permit is issued.
2. All solar collector installations must be performed by a Qualified Solar Installer.
3. Prior to operation, electrical connections must be inspected by the Town Code Enforcement Officer, and by the New York Board of Fire Underwriters or other appropriate electrical inspection person or agency, as determined by the Town. In addition, any connection to the public utility grid must be inspected by the appropriate public utility.
4. If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment by no later than 90 days after the end of the twelve-month period.
5. Solar Energy Systems and Equipment shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. Materials used for marking shall be weather resistant. For residential applications, the marking may be placed within the main service disconnect. If the main service disconnect is operable with the service panel closed, then the marking should be placed on the outside cover. For commercial application, the marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated.
6. If solar storage batteries are included, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use. When they are no longer in use, they shall be disposed of in accordance with the

laws of New York State Fire Prevention and Building Code and local laws of the Town of Amsterdam and any other applicable laws or regulations.

7. Glare and heat. No direct or unreasonable glare or transmission of heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated.

2. UTILITY-SCALE SOLAR ENERGY SYSTEMS

A. Purpose and Intent

1. The purpose of these regulations is to provide criteria for siting utility-scale solar energy systems that balance the benefits of solar energy collection with the unique characteristics of each site, and prevent potential impacts on neighboring properties.
2. In any instances where specific permitted uses, area, or height standards, development guidelines and/or review procedures specifically set forth in this section conflict with any other general provision or requirements of the Town of Amsterdam Zoning Law, the particular provisions set forth herein shall take precedence and control.

B. Bulk and Area Requirements

The following dimensional requirements shall apply to all utility-scale solar energy systems:

1. Height

- a. The total height of the solar collector arrays and mounting system shall not exceed 20 feet from the ground elevation when oriented at maximum tilt.
- b. All buildings and accessory structures associated with the utility-scale solar energy system shall have a maximum height of 15 feet.

2. Setbacks

All utility-scale solar energy systems and associated buildings, fences, accessory structures, and equipment shall have a minimum setback from any external property line of 100 feet.

3. Lot coverage

The maximum permitted lot coverage for a utility-scale solar energy system is 50% of the site. For the purpose of this section, lot coverage shall include the total surface area of the solar panel arrays and the footprints of all buildings and accessory structures.

4. Minimum lot size

The minimum lot size for utility-scale solar energy projects prior to any internal lot subdivision is:

- a. 50 acres in all Residential Zoning Districts (R-1, R-2, and R-M Districts).
- b. 20 acres in the A-Agriculture, B-1 Business, B-2 Restricted Business and M-Manufacturing /Mixed Use Zoning Districts.

C. General Provisions

1. Permitted Zones. Utility-scale solar energy systems are permitted in all zoning districts in the Town of Amsterdam and are subject to Site Plan and Special Permit Review and Approval by the Planning Board.
2. Public Hearing. The Planning Board shall hold at least one public hearing on the application. Notice shall be published in the Town's official newspaper, at least ten (10) days before any hearing. The applicant shall be required to mail notice of the public hearing to all landowners whose property is located within one thousand (1,000) feet of the Site Boundary, at least ten (10) days prior to the date of said public hearing. Notification shall be made by regular U.S. Mail, and proof of such mailing shall be presented to the Board at the public hearing.
3. Visual
 - a. Utility-scale solar energy systems shall be sited in a manner to have the least possible practical visual effect on the environment. Appropriate landscaping, screening, and/or earth berming shall be required to create a visual buffer and effectively screen the facility and its accessory buildings, structures and equipment from public roads and neighboring residences.
 - b. The buildings and accessory structures shall use materials, colors and textures that will help the facility blend into the existing environment to the extent possible. The solar panels and arrays shall be surfaced, designed and sited to minimize reflectivity to adjacent properties and roadways.
 - c. A Landscaping Plan and planting schedule shall be required, showing the existing vegetation and treelines, the proposed vegetation, landscaping and screening, and topography and potential berms.
 - d. A Visual Assessment Report including appropriate modeling and photography assessing the visibility from key viewpoints may be required by the Planning Board. In residential zoning districts, the applicant must demonstrate that the facility will not be visible from neighboring residences and public roads.
4. Installation. All solar collector installations must be performed by a Qualified Solar Installer. Prior to operation, electrical connections must be inspected by the Town Code Enforcement Officer and by the New York Board of Fire Underwriters or other appropriate electrical inspection person or agency, as determined by the Town. In addition, the connection to the public utility grid must be inspected by the appropriate public utility.

5. Safety. The owner/operator shall coordinate with local emergency responders to clarify on-site safety procedures. Identification and appropriate warning signage shall be posted at the site and clearly visible. Solar energy equipment shall be marked with weather resistant markings in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. The marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated.
5. Lighting. No utility-scale solar energy system shall be artificially lighted unless otherwise required by a federal, state or local authority. Exterior lighting may be provided for associated accessory structures and access entrances as may be determined appropriate for security purposes only.
6. Utilities. The applicant shall provide written confirmation that the electric grid has the capacity to support the energy generated from the utility-scale solar energy system. Electrical power lines and utility lines serving the site shall be placed underground.
7. Access. The applicant shall indicate on a site plan all existing and proposed access to the site, including road, electric power, emergency access, land-based telephone line connection, and other utilities existing and proposed within the property boundaries of the proposed location. Existing roadways shall be used for access to the site whenever possible.
8. Glare and heat. No direct or unreasonable glare or transmission of heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated.
9. Ownership. In the case of an application for a utility-scale solar energy system to be located on private lands owned by a party other than the applicant or the Town, a copy of the lease agreement with the property owner shall be filed with the Town.
10. Proof of insurance. The applicant and the owner of the property where the utility-scale solar energy system is to be located shall file with the Town proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with construction and operation thereof.
11. Security provisions. Each site shall have a minimum of an 8 foot security fence to prevent unauthorized access and vandalism to the utility-scale solar collectors and a security program for the site.
12. Noise. Noise-producing equipment shall be sited and/or insulated to minimize noise impacts on adjacent properties.
13. Annual Documentation. Verification by the utility company that the utility-scale solar energy system is still active shall be provided annually to the Town of Amsterdam Code Enforcement Officer.

D. Decommissioning and Abandonment

1. Decommissioning Plan. The applicant shall submit a Decommissioning Plan for review and approval by the Planning Board and Town Attorney during Site Plan Review. The Decommissioning Plan shall identify the anticipated life of the project, method and process for removing all components of the utility-scale solar energy system and returning the site to its pre-existing condition, and estimated decommissioning costs, include any salvage value.
2. Required Sureties for construction, maintenance and removal of utility-scale solar energy systems:
 - a. Performance bond and other security. Prior to the issuance of a building permit, the Town shall require that a performance bond or other security shall be provided by the applicant or owner/operator that is sufficient to cover the full cost of removal and disposal of the utility-scale solar energy system and associated accessory structures and the restoration of the site to pre-development conditions. This cost shall be determined by an estimate prepared as part of the Decommissioning Plan and approved by the Town Attorney. Any such security must be provided pursuant to a written security agreement with the Town, approved by the Town Board and the Town Attorney as to form, sufficiency and manner of execution. The form of security shall be limited to those permissible under NYS Town Law. If the applicant or owner/operator fails to comply with any conditions of the approval during construction or as part of the long-term maintenance of the site, all costs of the Town incurred to comply with conditions of the approval shall be paid using the surety provided. Failure to comply with the conditions of the approval or to maintain an acceptable level of surety will result in revocation of the Certificate of Occupancy.
 - b. Removal. The utility-scale solar energy system, including any accessory structures and/or equipment, shall be dismantled and removed from the site when the system has been inoperative or abandoned for 12 consecutive months and the site shall be restored to pre-development conditions. The full cost of the removal and site restoration shall be paid by the performance bond or other security posted by the owner/operator as required in Section 35.2.D.2.a. Abandonment shall be assumed by the Town if the annual documentation as required in Section 35.2.C.13 is not provided by the owner/operator for one year to the Town of Amsterdam Code Enforcement Officer. The Code Enforcement Officer shall then provide written notice to the owner/operator to remove the utility-scale solar energy system, who shall have three months from written notice to remove the utility-scale solar energy system, including any associated accessory structures and/or equipment, and restore the site to a condition approved by the Planning Board. If the owner/operator fails to remove any associated structures or restore the site to the condition approved by the Planning Board, all costs of the Town incurred to comply with this condition shall be paid using the surety provided.

E. Fees

The Town Board may set application, review and/or approval fees by resolution, from time to time, as it deems appropriate.

SECTION 36. WIND ENERGY FACILITIES

1. Purpose

The purpose of this section is to foster the effective and efficient use of the Town's wind energy resources through construction and operation of Wind Energy Facilities, subject to reasonable conditions that will preserve the public health, safety, and welfare.

2. Findings

The Town of Amsterdam finds and declares that:

- A. Wind energy is an abundant, renewable and nonpolluting energy resource and its conversion to electricity may reduce dependence on nonrenewable resources and decrease the air and water pollution that results from the use of conventional energy sources.
- B. The generation of electricity from properly sited wind turbines, including small systems, can be cost effective and on-site consumption can be reduced, and in many cases existing power distribution systems can be used to transmit electricity from wind energy facilities to utilities or other users.
- C. Regulation of the siting and installation of wind energy facilities is necessary to preserve the natural and scenic resources of the Town and the health, safety and welfare of neighboring property owners and the general public.

3. Applicability

- A. The requirements of this section shall apply to all Wind Energy Facilities proposed, operated, modified, or constructed after the effective date of this Local Law.
- B. Wind Energy Facilities for which a permit has been previously issued and upon which construction has commenced prior to the effective date of this Local Law, shall not be required to meet these requirements; however
 - 1. Any such preexisting Wind Energy Facility which does not provide energy for a continuous period of twelve (12) months shall meet the requirements of this Local Law prior to recommencing production of energy.
 - 2. No modification or alteration to an existing Wind Energy Facility shall be allowed without full compliance with this Local Law.
 - 3. Any Wind Measurement Tower existing on the effective date of this Local Law shall be removed no later than twenty-four (24) months after said effective date, unless a Special Use Permit for said Wind Measurement Tower is obtained.

4. Permits

- A. No Wind Energy Facility shall be constructed, reconstructed, modified, or operated in the Town of Amsterdam without first obtaining a Special Use Permit and Site Plan Review Approval under this law.
- B. Exemptions. No permit or other approval shall be required for a Small Wind Energy Facility utilized solely for agricultural operations in a New York State Agricultural District, if the facility meets the setback and height requirements included in this law. Prior to construction of the facility under this exemption, the property owner or a designated agent shall submit a sketch plan to the Zoning/Code Enforcement Officer to demonstrate compliance with these requirements.
- C. Replacement in kind or modification of a Wind Energy Facility may occur without Planning Board approval when there will be:
 - 1. no increase in Total Height of the Wind Turbine;
 - 2. no change in the location of the Wind Turbine;
 - 3. no additional lighting or change in facility color; and
 - 4. no increase in noise produced.

5. Fees

- A. The Town Board shall, by resolution, establish and from time to time modify a schedule of fees for Wind Energy Facility Permit applications.
- B. The Planning Board may hire any consultant and/or expert necessary to assist the Town in reviewing and evaluating the application. The applicant shall deposit with the Town funds sufficient to cover the reasonable costs of expert engineering evaluations and consultation in connection with the application review. An estimate of the amount required will be furnished to the applicant following the Sketch Plan conference. These funds will be held in an escrow account and any excess funds will be reimbursed to the applicant at the end of the review.

6. Tax Exemption

The Town of Amsterdam hereby does not exercise its right to opt out of the tax exemption provisions of Real Property Tax Law §487, pursuant to the authority granted by paragraph 8 of that law.

7. WIND MEASUREMENT TOWERS

A. Permitted Zones

Installation of Wind Measurement Towers, erected for the purpose of testing the feasibility of wind energy generation on a specific site, shall be permitted with a Special Use Permit and Site Plan Review in the R-1 and Agricultural Zones.

B. Applications for Wind Measurement Towers

An application for a Wind Measurement Tower shall include:

1. Name, address, telephone number and signatures of the property owner, applicant and agent for the applicant, if any, along with written authorization by the property owner to submit the application.
2. Address of the proposed Wind Measurement Tower, including Tax Map section, block and lot number.
3. Site Plan, including but not limited to showing the location of the Wind Measurement Tower in relation to lot lines, on-site and neighboring residences and other structures, utility lines, trees and other landscape elements, and topography.
4. Ownership and land use information within a 500 foot radius of the Site.
5. Structural drawings and manufacturer's specifications for the tower.
6. Decommissioning Plan, should the tower not be converted to permanent use for wind energy generation.
7. A completed Part 1 of the Short Environmental Assessment Form.
8. Proof of the applicant's public liability insurance.

C. Standards for Wind Measurement Towers

1. The distance between a Wind Measurement Tower and the property line shall be at least 1.5 times the Total Height of the tower. Sites can include more than one parcel and the requirement shall apply to the outer property line of the combined parcels.
2. Special Use Permits for Wind Measurement Towers may be issued for a period of up to twenty-four (24) months. Permits may be renewed if the Facility is in compliance with the conditions of the Special Use Permit.
3. Anchor points for any guy wires for a Wind Measurement Tower shall be located at least ten (10) feet from the Site property lines and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed in a fence six (6) feet high or sheathed in bright orange or yellow covering from the ground up to a minimum of eight (8) feet.
4. Wind Measurement Tower development on agricultural lands shall follow the Guidelines on Agricultural Mitigation for Windpower Projects published by the New York State Department of Agriculture and Markets.
5. Applicants shall remove the Wind Measurement Tower and all accessory equipment and restore the site after completion of the wind site assessment.

D. Wind Measurement Tower Application Review Process

The Wind Measurement Tower Review Process shall follow the procedures outlined in Article VI - Site Plan Review and Article VII - Special Permits. Wind Measurement Tower Applications may be submitted and reviewed concurrently with applications for Small and Large Wind Energy Facilities.

8. SMALL WIND ENERGY FACILITIES

A. Purpose and Intent

The purpose of this Section is to provide standards for Small Wind Energy Facilities designed for on-site home, farm, and small commercial use, and that are primarily used to reduce on-site consumption of utility power. The intent of this Section is to encourage the development of small wind energy facilities and to protect the public health, safety, and community welfare.

B. Permitted Zones

Small Wind Energy Facilities are permitted as accessory uses in the R-1 and Agricultural Zones upon Site Plan Review approval and issuance of a Special Use Permit.

C. Small Wind Energy Facility Applications

Applications for Small Wind Energy Facility Special Use Permits shall include:

1. Name, address, telephone number and signatures of the property owner(s), applicant and agent for the applicant, if any, along with written authorization by the property owner(s) to submit the application.
2. Address of the proposed Wind Energy Facility Site, including Tax Map section, block and lot number(s).
3. Site Plan, including but not limited to showing the location of the Wind Energy Facility in relation to lot lines, on-site and neighboring residences and other structures, utility lines, trees and other landscape elements, and topography.
4. Ownership and land use information within a 1,000 foot radius of the Site.
5. Evidence that the proposed Wind Turbine height does not exceed the height recommended by the manufacture or distributor of the system.
6. 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 Electric Code.
7. Sufficient information demonstrating that the system will be used primarily to reduce on-site consumption of electricity.

8. 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 to connect the system to the electricity grid, and so states in the application.
9. A visual analysis of the Small Wind Energy Facility 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.
10. A completed Part 1 of the Short Environmental Assessment Form.
11. Decommissioning Plan
12. Any other supplementary information listed in Section 9.C, Large Wind Energy Facility Applications, that the Planning Board deems necessary and appropriate for review of the project.

D. Small Wind Energy Facility Development Standards.

All Small Wind Energy Facilities shall comply with the following standards:

1. Small Wind Energy Facilities must be used primarily to generate on-Site Power or to reduce the on-Site consumption of electricity.
2. A Small Wind Energy Facility shall be located on a Site a minimum of 5 acres in size, however, this requirement can be met by multiple owners submitting a joint application.
3. Only one Wind Turbine is permitted per Small Wind Energy Facility Site.
4. The Wind Turbine shall be setback:
 - a. one and one-half (1.5) times the height of the tower from all Site boundary lines and above ground utility lines, and
 - b. five hundred (500) feet from any residence or occupied building not served by the Small Wind Energy Facility.
4. The Wind Turbine shall be setback a minimum of one and one-half (1.5) times the height of the tower from all Site boundary lines, and above ground utility lines.
5. Maximum permitted Total Height of the Wind Turbines is:
 - a. 100 feet on Sites between 5 and 10 acres
 - b. 150 feet on Sites of more than 10 acres.

The allowed height shall be reduced if necessary to comply with all applicable Federal Aviation Requirements.

6. Noise. Except during short-term events including utility outages and severe wind storms, a Small Wind Energy Facility shall be designed, installed, and operated so that noise generated by the system shall not exceed the 50 decibels (dBA), as measured at the Site boundary lines.
7. The Wind Turbine 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.
8. The Small Wind Energy Facility shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g., public parks, roads, trails). To the greatest extent feasible the facility shall use natural landforms and vegetation for screening.
9. Exterior lighting on any structure associated with the facility shall not be allowed except that which is specifically required by the Federal Aviation Administration.
10. 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 Town if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.
11. 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.
12. At least one sign shall be posted on the Wind Turbine tower at a height of five (5) 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.
13. Wind Turbine towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:
 - a. Tower-climbing apparatus located no closer than 12 feet from the ground.
 - b. A locked anti-climb device installed on the tower.
 - c. A locked, protective fence at least six feet in height that encloses the tower.
14. Anchor points for any guy wires for a Wind Turbine Tower shall be located at least ten (10) feet from the Site property lines and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed in a fence six (6) feet high or sheathed in bright orange or yellow covering from the ground up to a minimum of eight (8) feet.

15. Construction of on-site access roadways shall be minimized. Temporary access roads utilized for initial installation shall be re-graded and re-vegetated to the pre-existing natural condition after completion of installation.
16. The minimum distance between the ground and any part of the rotor or blade system shall be thirty (30) feet.
17. All Wind Turbines shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Building Code and National Electric Code.
18. All Wind Turbines shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.
19. Small Wind Energy Facility development on agricultural lands shall follow the Guidelines on Agricultural Mitigation for Windpower Projects published by the New York State Department of Agriculture and Markets.

E. Small Wind Energy Facility Application Review Process

1. The Wind Measurement Tower Review Process shall follow the procedures outlined in Article VI - Site Plan Review and Article VII - Special Permits.
2. Applicants may request a pre-application meeting with the Planning Board and with any consultants retained by the Town for application review. Meetings with the Planning Board shall be conducted in accordance with the Open Meetings Law.
3. Ten (10) 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.
4. The Planning Board shall, within 30 days of receipt, or such longer time if agreed to by the applicant, determine if all required information is included in the application. If the application is deemed incomplete, the applicant shall be provided with a written statement listing the missing information. Upon submission of a complete application, the Planning Board shall proceed with its review.
5. The Planning Board shall hold at least one public hearing on the application. Notice shall be published in the Town's official newspaper, at least ten (10) days before any hearing. The applicant shall be required to mail notice of the public hearing to all landowners whose property is located within one thousand (1,000) feet of the Site Boundary, at least ten (10) days prior to the date of said public hearing. Notification shall be made by regular U.S. Mail, and proof of such mailing shall be presented to the Board at the public hearing.
6. Notice of the project shall also be given, when applicable, to the Montgomery County Planning Board, if required by General Municipal Law § 239-m, and to adjoining Towns under General Municipal Law § 239-nn.

7. SEQRA review. Applications for Small Wind Energy Facilities are deemed Unlisted Action under SEQRA. The Planning Board may conduct its SEQRA review in conjunction with other agencies, in which case the records of review by said agencies shall be part of the record of the Planning Board's proceedings. The Planning Board may require an escrow agreement for the engineering and legal review of the applications and any environmental impact statements before commencing its review.
8. 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 Planning Board may approve, approve with conditions, or deny the Small Wind Energy Facility Special Use Permit.
9. Prior to the issuance of a building permit by the Zoning/Code Enforcement Officer, the applicant shall provide proof to the Town of a level of insurance adequate to cover damage or injury that might result for the failure of the tower or any other parts of the Small Wind Energy facility.

F. Maintenance, Abandonment of Use

1. All Small Wind Energy Facilities shall be maintained in good condition and in accordance with all requirements of this section.
2. A Small Wind Energy Facility which is not used for twelve (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.

9. LARGE WIND ENERGY FACILITIES

A. Purpose and Intent

The purpose of this Section is to provide standards for Large Wind Energy Facilities which are primarily intended to produce power for distribution on the public utility grid. The intent of this Section is to permit the development of large wind energy facilities, but with stringent standards to protect the public health, safety, and community welfare.

B. Permitted Zones

Large Wind Energy Facilities are permitted as principal uses in the Agricultural Zone upon Site Plan Review approval and issuance of a Special Use Permit.

C. Large Wind Energy Facility Applications

An application for a Large Wind Energy Facility Special Use Permit shall include the following:

1. Name, address, telephone number and signatures of the property owner(s), applicant and agent for the applicant, if any, along with written authorization by the property owner(s) to submit the application.
2. Address, or other property identification of each proposed Wind Turbine Location, including Tax Map section, block and lot number and latitude and longitude coordinates.
3. A narrative description of the project, including the number and maximum rated power output capacity of each Wind Turbine.
4. A Site Plan prepared by a licensed professional engineer, including:
 - a. Property lines and physical dimensions of the Site;
 - b. Location, approximate dimensions and types of major existing structures and uses on the Site, public roads, and adjoining properties within five hundred (500) feet of the boundaries of any proposed wind turbines, or one and one-half (1½) times the total height of such wind turbines, whichever shall be greater.
 - c. Location and elevation of each proposed Wind Turbine.
 - d. Location of all above and below ground utility lines on the Site as well as transformers, the interconnection point with transmission lines, and other ancillary facilities or structures.
 - e. Locations of setbacks as required by this law
 - f. Location of the nearest residential structure(s) on the Site and located off the Site, and the distance from the nearest proposed wind turbine.
 - g. All proposed facilities, including access roads, electrical substations, storage or maintenance units, and fencing.
5. An Elevation drawing of the Wind Turbine 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 wind turbine of the same type and total height. The make, model, picture and manufacturer's specifications, including noise decibels data, and Material Safety Data Sheet documentation for all materials used in the operation of the equipment shall be provided for each proposed wind turbine.
6. A Landscaping Plan describing the area to be cleared of vegetation and areas where vegetation shall be added, identified by species and size of specimens at installation, and their locations.
7. A Lighting Plan showing any FAA-required lighting and other proposed lighting. Lighting shall be directed up and out, not down.

8. Erosion and Sediment Control and Storm Water Management Plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board on the recommendation of its Town Engineer or consultants.
9. A Construction Schedule describing commencement and completion dates, including a traffic analysis with a description of the routes to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles.
10. An Operations and Maintenance Plan providing for regular periodic maintenance schedules, any special maintenance requirements and procedures and notification requirements for restarts during icing events.
11. A Decommissioning Plan that addresses the anticipated life of the wind turbine, the estimated decommissioning costs, the method of ensuring funds shall be available for decommissioning and restoration, the method by which decommissioning cost shall be kept current, and the manner in which the wind turbine shall be decommissioned and the Site restored, which shall include removal of all roads, structures and debris to a depth of 3 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.
12. List of property owners, with their mailing address, within 2,000 feet of the outer boundaries of the proposed Site.
13. A Complaint Resolution process to address complaints from nearby residents. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The applicant shall make every reasonable effort to resolve any complaint, not to exceed sixty (60) days.
14. A Transportation Plan describing routes to be used in delivery of project components, equipment and building materials and those to be used to provide access to the Site during and after construction. Such plan shall also describe any anticipated improvements to existing roads, bridges or other infrastructure, as well as measures which will be taken to restore damaged/disturbed access routes following construction.
15. A statement signed under penalties of perjury that the information contained in the application is true and accurate.
16. Part 1 and Part 3 Visual Addendum of the Full Environmental Assessment Form, as provided by the New York State Environmental Quality Review Act (SEQRA). This Full Environmental Assessment shall, at a minimum, include:
 - a. A Shadow Flicker Study, including a graphic to identify locations where shadow flicker may be caused by the wind turbines and expected durations of the flicker at these locations. The study shall identify areas where shadow flicker may interfere with residences and describe measures to be taken to eliminate shadow flicker problems. If shadow flicker impacts are of either high intensity or duration (more than 25 hours per year), then a second level analysis of shadow flickers modeling will

occur, including an on-site assessment of property conditions. If shadow flicker can not be minimized to a shorter duration or intensity, project modifications may be required. It is desirable to have no shadow flicker on off-site residences.

- b. A Visual Impact Study of the proposed wind turbines as installed, which shall include a computerized photographic simulation and digital elevation models demonstrating visual impacts from strategic vantage points. Color photographs of the Site accurately depicting existing conditions shall be included as well as a map indicating areas where the wind turbines will be visible to a person at five (5) feet above ground level. The visual analysis shall also indicate color treatment of system components and any visual screening to be incorporated into the project to lessen the system's visual prominence.
- c. A Fire Protection and Emergency Response Plan, created in consultation with the fire department(s) having jurisdiction over the proposed Site, as well as the Montgomery County Department of Emergency Management.
- d. A Noise Analysis by a competent acoustical consultant including:
 - 1) A description and map of the project's noise-producing features which will include but not be limited to the range of noise levels expected (A-weighted, C-weighted and G-weighted), the tonal and frequency characteristics expected, the duration of sound, frequency of occurrence, and the effects of changes in wind speed and direction;
 - 2) The manufacturer's data and standards for all structures, including designed noise levels and the noise levels determined by testing in the field;
 - 3) A survey and report prepared by an independent, qualified, New York State engineer that analyzes the preexisting ambient noise including seasonal and twenty-four (24) hour variations at residences within one (1) mile of the Site boundary;
 - 4) The analysis must be accompanied by a topographic map showing, in increments of 5 decibels out to a level of 20 decibels, the noise level contours of the Site vicinity, in order to visualize the cumulative noise impacts from the Wind Energy Facility on surrounding properties. All residences within the greater of one (1) mile of the Site boundary or the twenty (20) decibel contour shall be clearly shown;
 - 5) Because the Town of Amsterdam is hilly where noise can carry far and in unexpected directions, the study must consider sounds carried from hilltop to hilltop, hilltop to valley, and along valleys in a radius of ten miles from a Wind Energy Facility. The study must also produce an analysis of cumulative noise impacts; and
 - 6) The applicant shall submit a design for post-development noise monitoring as well as a description of proposed noise control features, including specific

measures to protect workers, and to mitigate noise impacts to a level of insignificance off-site. A summary of the applicant's proposed noise complaint resolution program must be included.

- e. Electromagnetic Interference Assessment of potential interference with microwave, radio, television, personal communication systems, 911 and other wireless communication by an independent contractor as determined by the Planning Board with the applicant paying all fees.
- f. Wildlife Impact Assessment of the immediate and long-term impact of the proposed development on the local flora and fauna, including migratory and resident avian species and bat species. The scope of such assessment shall be developed in consultation with the New York State Department of Environmental Conservation and the United States Fish and Wildlife Service and must at a minimum consist of a literature survey for threatened and endangered species and provide relevant information on critical flyways, and shall describe the potential impacts of any proposed facilities on bird and bat species, and an avoidance or mitigation plan to address any impacts, as well as plans for post-installation studies.
- g. Property Value Analysis shall be prepared by a licensed appraiser in accordance with industry standards, regarding the potential impact of the Wind Energy Facility on neighboring property values.
- h. Cultural Resources Assessment of archaeological resources that may be impacted by the project. Such assessment shall be conducted in coordination with the New York State Office of Parks, Recreation and Historic Preservation.
- i. Ice Throw Report from an independent New York State professional engineer that calculates the maximum distance that ice from the turbine blades and pieces of turbine blade could be thrown. (The basis of the calculation and all assumptions must be disclosed). The incidence of reported ice and blade throws and the conditions at the time of the ice and blade throw must be included.
- j. A Geotechnical Report that includes:
 - 1) soils engineering and engineering geologic characteristics of the Site based on Site sampling and testing,
 - 2) a bedrock profile within one (1) mile of the Site,
 - 3) information on depth of well, average flow rate, and with permission by owner, test of water quality for all wells within two (2) miles of the Site,
 - 4) grading criteria for ground preparation, cuts and fills, soil compaction, and
 - 5) a slope stability analysis.
- k. Ground Water Impacts analysis of impacts on local ground water resources shall be prepared, regarding impacts anticipate during construction, reconstruction, modification or operation of the Wind Energy Facility.
- l. Transportation Analysis of impacts on local transportation anticipated during construction, reconstruction, modification or operation of the Wind Energy Facility.

Impacts to be considered shall include, at a minimum, potential damage to local road surfaces, road beds and associated structures; potential traffic tie-ups by haulers of materials, impacts on school bus routes; impacts of visitors to the Facility.

D. Large Wind Energy Facility Application Review Process

1. Applicants must arrange a pre-application meeting with the Planning Board and consultants retained by the Town/Village for application review.
2. Ten copies of the complete application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of submission.
3. The Planning Board shall, within 45 days of receipt, or such longer time as may be accepted by the applicant, determine if all information required hereunder is included in the application. If the application is deemed incomplete, the applicant shall be provided with a written statement listing missing data. If applicant fails to provide data within 45 days, the application shall expire. Upon submission of a complete application, the Planning Board shall proceed with its review.
4. The Planning Board shall hold at least one public hearing on the application. Notice shall be published in the Town's official newspaper, at least ten (10) days before any hearing, but, where any hearing is adjourned by the Planning Board to hear additional comments, no further publication shall be required. The public hearing may be combined with public hearings on any Environmental Impact Statement or requested waivers. The applicant shall be required to mail notice of the public hearing to all landowners whose property is located within two thousand (2,000) feet of the Site boundary, at least ten (10) days prior to the date of said public hearing. Notification shall be made by U.S. Certified Mail, return receipt requested, and proof of such mailing shall be presented to the Board at the public hearing.
5. Notice of the project shall also be given, when applicable, to the Montgomery County Planning Board, if required by General Municipal Law § 239-m, and to adjoining Towns under General Municipal Law § 239-nn.
6. SEQRA review. Applications for Large Wind Energy Facilities are deemed Type 1 Actions under SEQRA. The Planning Board must conduct its SEQRA review in conjunction with other involved agencies, in which case the records of review by said agencies shall be part of the record of the Planning Board's proceedings. The Planning Board shall require an escrow agreement for the engineering and legal review of the applications and any environmental impact statements before commencing its review.
7. Following receipt of the recommendation of the Montgomery County Planning Board (if applicable), the holding of the public hearing, and completion of the SEQRA process, the Planning Board may approve, approve with conditions, or deny the Large Wind Energy Facility Permit application, in accordance with the standards in this law. The Planning Board may also impose financial guarantee and inspection requirements and require permit renewals. Any denial shall be writing setting forth competent reasons for such denial with references to relevant sections of this law.

E. Large Wind Energy Facility Development Standards

The following standards shall apply to Large Wind Energy Facilities in the Town of Amsterdam:

1. All power transmission lines from the tower to any building, substation, or other structure shall be located underground in accordance with National Electrical Code Standards.
2. No television, radio or other communication antennas may be affixed or otherwise made part of any wind turbine, except with approval by the Town Planning Board. Applications may be jointly submitted for wind turbine and telecommunications facilities.
3. No advertising signs are allowed on any part of the Wind Energy Facility, including fencing and support structures.
4. No tower shall be lit except to comply with Federal Aviation Administration (FAA) requirements. Minimum security lighting for ground level facilities shall be allowed as approved on the Wind Energy Facility development plan.
5. All applicants shall use measures to reduce the visual impact of wind turbines to the greatest extent possible. Wind turbines shall use tubular towers. All structures in a project shall be finished in a single, non-reflective matte finished color or a camouflage scheme. Wind turbines within a multiple wind turbine project shall be generally uniform in size geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.
6. Guy wires shall not be permitted except to address unique safety issues and then only with specific permission by the Planning Board in the form of a waiver.
7. No wind turbine 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 communication systems would produce electromagnetic interference with signal transmission or reception. If it is determined a wind turbine is causing electromagnetic interference, the operator shall take necessary corrective action to eliminate this interference including relocation or removal of the facilities, or resolution of issues with the affected parties. Failure to remedy electromagnetic interference is grounds for revocation of the Wind Energy Facility Permit for the specific wind turbine or wind turbines causing the interference.
8. All construction debris shall be removed from the Site or otherwise disposed of in a manner acceptable to the Planning Board.
9. Wind Turbines shall be designed to minimize the impacts of land clearing and the loss of important open spaces. Development on agricultural lands shall follow the Guidelines for Agricultural Mitigation for Windpower Projects published by the New York State Department of Agriculture and Markets.

10. Wind turbines shall be located in a manner that minimizes significant negative impacts on rare animal species in the vicinity, particularly bird and bat species.
11. Storm water run-off and erosion control shall be managed in a manner consistent with all applicable state and Federal laws and regulations and such standards as shall be applied by the Planning Board on the advice of the Town Engineer and other consultants.
12. Wind turbines shall be located in a manner that minimizes shadow flicker on off-site residences. It is desirable to have no shadow flicker on off-site residences.

F. Required Site Safety Measures

1. All wind turbines shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades and turbine components.
2. Accessory facilities or equipment shall be gated or fenced to prevent unrestricted public access to the facilities and reduce any attractive nuisance aspects of the use.
3. Warning signs shall be posted at the entrances to the Wind Energy Facility and at base of each tower warning of electrical shock or high voltage and containing emergency contact information.
4. No climbing pegs or tower ladders shall be located closer than 15 feet to the ground level at the base of the structure for freestanding single pole or guyed towers.
5. The minimum distance between the ground and any part of the rotor or blade system shall be 30 feet.
6. Wind Energy Facilities shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked at all times.

G. Traffic Routes and Road Maintenance

1. Construction and delivery vehicles for Wind Energy Facilities shall propose, and the Planning Board shall approve or modify, designated traffic routes to minimize traffic impacts from construction and delivery vehicles, wear and tear on local roads and impacts on local business operations.
2. The applicant is responsible for remediation of damaged roads upon completion of the installation or maintenance of a Wind Energy Facility. A public improvement bond shall be required prior to the issuance of any building permit in an amount, determined by the Planning Board, sufficient to compensate the Town, County or State for any damage to Town, County or State roads if any of these roads will be among the designated traffic routes. The applicant shall consult with the Town Highway Superintendent and/or the Montgomery County Department of Public Works and/or the State Department of

Transportation to obtain a written recommendation for bonding form and amount, which form and amount shall be approved by the Planning Board.

3. The applicant shall provide pre-development and post-development photographic evidence of the condition of any Town, State or County roads along the proposed route.

H. Setbacks & Noise

1. Each Wind Turbine shall be meet the following setback requirements:
 - a. Residences and other occupied buildings: one thousand five hundred (1,500) feet.
 - b. Site Boundary: one and a half (1.5) times its total height.
 - c. Public Roads and Utility Lines: the greater of one and a half (1.5) times its total height or five hundred (500) feet.
 - d. State Wetlands and bodies of water: one thousand five hundred (1,500) feet.
2. The statistical sound pressure level generated by a Wind Energy Facility shall not exceed the ambient decibel level, both A-weighted and C-weighted, plus 5 decibels measured anywhere along the Site boundary. Ambient sound level measurements shall employ all practical means to reduce or compensate for the effect of wind generated noise artifacts at the microphone so as to measure the actual sound level most accurately. Ambient sound level measurements should be performed when wind velocities aloft are sufficient to allow wind turbine operation and should report ambient sound levels for wind speeds aloft corresponding to turbine cut-in as well as the wind speed aloft corresponding to production of the greatest noise. The sound pressure level at any off-site residence shall not exceed ambient sound plus 5 decibels, both A-weighted and C-weighted, as determined by the Noise Analysis prepared as part of the Environmental Assessment for the project. Independent verification by an acoustical engineer certified with the Institute of Noise Control Engineering shall be provided before and after construction demonstrating compliance with this requirement.

I. Issuance of Large Wind Energy Facility Permits

1. The Planning Board shall, within 120 days of determining the application is complete, and upon consideration of the standards in this law and the record of the SEQRA review, issue a written decision with the reasons for approval, conditions of approval or disapproval fully stated. This time period may be extended with consent of the applicant. Should the applicant not consent to such an extension and the time period elapse without a decision, the application shall be considered approved without conditions.
2. If approved, the Planning Board shall direct the Zoning/Code Enforcement Officer to issue a Wind Energy Facility Permit upon satisfaction of all conditions for said Permit, and upon compliance with the New York State Building Code.

3. The decision of the Planning Board shall be filed within 15 days in the office of the Town Clerk and a copy mailed to the applicant by first class mail.
4. Prior to the issuance of a building permit the applicant shall provide proof to the Town of a level of insurance adequate to cover damage or injury that might result for the failure of the tower or any other parts of the Large Wind Energy Facility.
5. Prior to the issuance of a building permit the applicant shall provide proof that it has executed an Interconnection Agreement with the New York Independent System Operator and the applicable Transmission Owner.
6. If any approved Large Wind Energy Facility is not substantially commenced within two years of issuance of the Wind Energy Facility Permit, the Wind Energy Facility Permit shall expire, unless the Planning Board shall have granted an extension.

J. Abatement

1. If any wind turbine remains non-functional or inoperative for a continuous period of twelve (12) months, the owner shall remove said system at its own expense following the requirements of the decommissioning plan. Removal of the system shall include at least the entire above ground structure, including transmission equipment and fencing, from the property. This provision shall not apply if the owner demonstrates to the Town that it has been making good faith efforts to restore the wind turbine 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, NYSERDA, New York Independent System Operator, or by lack of income generation. The applicant shall make available (subject to a nondisclosure agreement) to the Planning Board all reports to and from the purchaser of energy from individual wind turbines, if requested and necessary to prove the wind turbine 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, in a form approved by the Town for the removal of non-functional towers and appurtenant facilities, in an amount to be determined by the Town, for the period 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. All decommissioning bond requirements shall be fully described in the decommissioning plan.

K. Limitations on Approvals

Nothing in this law 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 law 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.

L. Permit Revocation

1. The applicant shall fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which may be required as often as biannually, or more frequently upon request of the Planning 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 Wind Energy Facility Permit and this law and shall also include an evaluation of any complaints received by the Town. The applicant shall have 90 days after written notice from the Planning Board, to cure any deficiency. An extension of the 90 day period may be considered by the Planning Board, but the total period may not exceed 180 days.
2. A wind turbine 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 wind turbine become inoperable, or should any part of the wind turbine be damaged, or should a wind turbine violate a permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Planning Board. The applicant shall have 90 days after written notice from the Planning Board, to cure any deficiency. An extension of the 90 day period may be considered by the Planning Board, but the total period may not exceed 180 days.
3. Should a wind turbine not be 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 timeframe, or order revocation of the Wind Energy Facility Permit for the wind turbine and require its removal within 90 days. If the wind turbine is not removed, the Planning Board shall have the right to use the security posted as part of the decommission plan to remove the wind turbine.

ARTICLE IX – OFF-STREET PARKING AND LOADING

SECTION 37. AUTOMOBILE PARKING FACILITIES

Where one or more motor or other vehicle recurrently parks by reason of the use and occupancy of any premises, there shall be provided on or in convenient connection therewith adequate garage or vehicular parking spaces for the number and proportion to the size of the vehicles which so park, the minimum to be not less than one hundred eighty square feet per automobile, in addition to driveway and backing and turning space where required. The recurrent parking of any such vehicle on the right-of-way of a highway or the impeding of traffic or creation of traffic hazards by the parking of any such vehicle shall be prima facie evidence of the failure to provide adequate and suitable garage or parking space on or in convenient connection with such premises. In Business and Manufacturing Districts parking in any front yard shall be separated from the street or highway right-of-way by a lawn or planting area 10 feet or more wide and 20 feet or more for a shopping center. Driveways shall be provided only at designated and approved locations.

Parking requirements for certain uses are specified in Schedule B. For uses not specified the Board of Appeals shall establish parking requirements, after recommendation of the Planning Board.

For any building having more than one use, parking shall be required for each use. An unoccupied travel trailer may be parked in the rear yard of any premises by the occupant of said premises.

Handicapped accessible parking shall be provided in accordance with Section 1106 of the Building Code of New York State.

SECTION 38. OFF-STREET LOADING

Off-street loading facilities shall be provided for each commercial or industrial establishment hereafter erected or substantially altered and shall be so arranged as not to interfere with pedestrian or motor traffic on the public street or highway.

SCHEDULE B - OFF-STREET PARKING

Use	Spaces Required
1. Dwellings	2 spaces for each dwelling unit
2. Rooming house, tourist home, motel, hotel	1 space for each guest room
3. Administrative, professional, charitable, governmental or utility office	1 space for each 400 square feet of floor space
4. Funeral home	10 spaces, plus space for all employee and resident personnel
5. Church	1 space for each 4 seating spaces in main assembly room
6. Elementary school	2 spaces for each classroom
7. High school	14 spaces for each classroom
8. Theatre or other place of assembly	1 space for each 5 seating spaces
9. Hospital	2 spaces for each bed
10. Nursing or convalescent home	1 space for each 4 beds
11. Retail store or bank	1 space for each 250 square feet of floor space devoted to customer use
12. Shopping Center	1 space for each 300 square feet of gross leasable area
13. Clubs and restaurants	1 space for each three customer seats
14. Bowling alley	5 spaces for each alley
15. Wholesale, storage, freight, terminal or utility use	1 space for each 1,000 square feet of gross floor area
16. Industrial or manufacturing use	1 space for each employee on the maximum working shift
17. Home occupation	1 space for each client or patient at any one time

ARTICLE X – NON-CONFORMING USES

SECTION 39. CONTINUATION

The lawful use of any land or building existing at the time of adoption of this law may be continued although such use does not conform with the provisions of this law. Any such building may be reconstructed or structurally altered and the non-conforming use thereby changed, provided the following conditions prevail.

SECTION 40. NON-CONFORMING USE OF LAND AND BUILDINGS

1. Non-Conforming Use of Buildings

- A. Reconstruction or Alteration.** A non-conforming building may not be reconstructed or altered during its life to exceed fifty (50) percent of its fair value, unless such building is changed from a non-conforming to a conforming use as defined by the law, except when a mobile home is replaced with a new or larger unit, providing such exchange is made within thirty days. A permit is required for this exchange.
- B. Restoration.** A building, non-conforming as to use, which has been damaged by fire or other causes to the extent of seventy-five (75) percent of its fair value may be repaired or reconstructed. The Planning Board, however, may grant a Special Permit to the owner of record at the time of such damage for restoration of a building with 75 percent or more damage subject to conditions listed under Special Permits, Article VII.
- C. Discontinuance.** When a non-conforming use has been discontinued for a period of twelve (12) months, any future use of such building shall conform with the regulations for the district in which it is located.
- D. Changes.** A non-conforming use may not be changed to another non-conforming use under the provisions of this Section.
- E. Completion of Building.** Any building lawfully under construction at the time of enactment of this law may be completed.

2. Non-Conforming Use of Land

The non-conforming use of land shall not be enlarged or extended beyond the area of land occupied by such use at the time of the adoption of this ordinance. A non-conforming use of land may not be moved in whole or in part to any other portion of the lot or parcel of land occupied by such non-conforming use at the time of the adoption of this ordinance. A non-conforming use of land may not be changed to another non-conforming use. If a non-conforming use of land is discontinued for a period of twelve (12) months, it shall not be renewed, and any subsequent use of the land shall conform to the regulations of the district in which the land is located.

ARTICLE XI – ADMINISTRATION AND ENFORCEMENT

SECTION 41. PLANNING STAFF

The Town Board shall appoint to serve the Town Planning Board a part-time or full-time professional planner who shall make recommendations and reports where required in this law in addition to other duties which may be assigned to him. The professional planner may be a Town employee, a consultant, the staff of the Montgomery County Department of Economic Development and Planning or retained in other similar manner. The appointee shall be a qualified professional planner and the appointment shall be subject to the approval of the Town Planning Board. The Town Planning Board may request an advisory opinion from the Montgomery County Director of Economic Development and Planning or from the New York State Department of State Division of Local Government concerning the qualifications of a planner to carry out the required work.

SECTION 42. FEE SCHEDULE

1. Fees and charges of the Town of Amsterdam for such matters related to this Law including Zoning/Use Permits, Certificates of Occupancy, Site Plan Review, Special Use Permits, Variances, Sign Permits, Pool Permits, Subdivision, Personal Wireless Service Facilities and other similar Town fees and charges shall be set forth in a fee schedule established by the Town Board by resolution.
2. The Town Board shall, each year, at its organizational meeting, readopt its fee schedule for the new Town fiscal year. The Town Board shall also have the power to amend the fee schedule, from time to time, in its discretion when circumstances warrant such changes to the fee schedule. The schedule of fees shall be available for public inspection in the office of the Town Clerk.

SECTION 43. ENFORCEMENT

This law shall be enforced by the Zoning/Code Enforcement Officer designated by the Town Board. The Zoning/Code Enforcement Officer shall in no case grant any building permit where the proposed erection, alteration, relocation, or use would be in violation of any provision of this law. The Zoning/Code Enforcement Officer shall make inspections of buildings or premises necessary to carry out his duties. No permit nor certificate of occupancy required hereunder shall be issued by the Zoning/Code Enforcement Officer except in compliance with the provisions of this law, or as directed by the Board of Appeals under the provisions of Article XII.

SECTION 44. ZONING/USE PERMIT

1. No building shall hereafter be erected, relocated or altered as to outside dimensions or so as to permit a change in its use and no excavation for any building shall be begun unless and until a permit therefore has been issued by the Zoning/Code Enforcement Officer under the regulations of this Local Law and/or by direction of the Town Planning Board under the regulations of this Local Law; or by the Board of Appeals wherever it is provided in this Local Law that the approval of the Board of Appeals is required.

2. No such permit shall be issued until there has been filed with the Zoning/Code Enforcement Officer a sketch or plot plan showing the actual dimensions and angles of the lot to be built upon, the exact size and location on the lot of the building or accessory buildings to be erected, relocated or altered and such other information as may be necessary to determine and provide for the enforcement of this law, together with a sketch, plot plan or diagram of the proposed sewage disposal system for said building or accessory building, which system shall comply with the standards promulgated by the New York State Department of Health. Each application shall state the purpose for which the structure or land is to be used and a general description of the type of construction.
3. The Zoning/Code Enforcement Officer shall act upon all applications for zoning/use permits within ten (10) days. He shall issue or refuse to issue such permits. Notice of refusal to issue any permit shall be given to the owner or to his authorized representative in writing and shall state the reasons for said refusal. The fee for any such permit shall be as determined by the Town Board who shall also establish a penalty fee for a permit obtained after the start of construction.
4. The Zoning/Code Enforcement Officer shall further have power to revoke permits issued if it shall appear at any time that the application or accompanying material is in any respect false or misleading or that the work being done is differing materially from what is called for on the application filed by him.

SECTION 45. CERTIFICATE OF OCCUPANCY

No land shall be used or occupied and no building hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the Zoning/Code Enforcement Officer. Under such rules as may be established by the Board of Appeals, a temporary certificate of occupancy for not more than 30 days for a part of a building may be issued by the Zoning/Code Enforcement Officer. For previously existing construction, the Zoning/Code Enforcement Officer may, on request, issue such a certificate if he determines that the use of the building in question meets the requirements on the Local Law.

A certificate of occupancy shall be issued only if the proposed use of the building or land conforms to the provisions of this Local Law and to the plot plan, purpose and description for which the permit was issued. The Zoning/Code Enforcement Officer shall make or cause to have made an inspection of each building or lot for which a certificate of occupancy has been applied before issuing such certificate. Such inspection shall be made within ten (10) days from the date of application, Saturdays, Sundays and legal holidays excepted.

A certificate of occupancy shall be issued only if there has been filed with the Zoning/Code Enforcement Officer a certificate executed by one or more of the owners of the premises that the sewage disposal system has been completed in accordance with the sketch, plot plan or diagram thereof filed with the Zoning/Code Enforcement Officer.

SECTION 46. VIOLATIONS AND PENALTIES

1. Violations of this Law shall be subject to the provisions of applicable law. Upon determination by the Zoning/Code Enforcement Officer that a violation of this exists, he shall send written notice to the last known owner of record of the property, as determined by the assessment records, informing said owner of the violation of specific provisions of this Law and stating that action is to be taken by said owner to remove such violation in 20 days; or proceedings to compel compliance with the Law will be instituted by the Town Board. Any violation of this Law may also be enjoined pursuant to law.
2. A violation of this local law is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six (6) months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five (5) years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six (6) months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five (5) years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six (6) months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this article or of such local law, ordinance or regulation shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
3. Any person may file a complaint of a violation of this law in writing with the Zoning/Code Enforcement Officer, who shall properly record such complaint and immediately investigate and report thereon to the Town Board.
4. The Town Attorney or any aggrieved person may take such action, criminal, civil or both, as may be provided by law against any person or organization who violates or may intend to violate this law.
5. If any individual is in violation of a zoning/use permit, no new permits for the same premises will be issued to this individual until the violation is corrected.

ARTICLE XII – BOARD OF APPEALS

SECTION 47. CREATION, APPOINTMENT AND ORGANIZATION

A Board of Appeals is hereby created. Said Board shall consist of five members appointed by the Town Board, and any appointed alternate members. The Town Board shall also designate the Chairman. The Board of Appeals shall prescribe rules for the conduct of its affairs.

SECTION 48. POWERS AND DUTIES

The Board of Appeals shall have all the powers and duties prescribed by statute and by this local law, which are more particularly specified as follows:

- 1. Interpretation.** Upon appeal from a decision of the Zoning/Code Enforcement Officer to decide any question involving the interpretation of any provision of this law, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
- 2. Appeals for Variances.** Upon appeal from a decision of the Zoning/Code Enforcement Officer, the Zoning Board of Appeals shall hear requests for variances from a strict application of this local law. However, not all requests for variances need include a denial from the Zoning/Code Enforcement Officer. New State laws passed in 1993 allow applicants with proposed subdivisions or site plans which lack minimum area, frontage or setback requirements to appeal directly to the Zoning Board of Appeals.
- 3. Area Variances.** An area variance is an authorization by the Zoning Board of Appeals for a variance from the dimensional or physical requirements of the zoning regulations, such as setback, frontage, lot size, density or yard requirements. In making decisions, 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 Zoning Board of Appeals shall also consider:
 - A. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by 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 Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it deems necessary and adequate and yet at the same time which will preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

4. **Use Variances.** A use variance is the authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulation. No such variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that the applicable zoning regulations and restrictions have caused unnecessary hardship. The applicant must demonstrate that:
 - A. For each and every permitted use under the zoning regulations for the particular district where the property is located the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; and
 - 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; and
 - C. That the requested use variance, if granted will not alter the essential character of the neighborhood; and
 - D. That the alleged hardship has not been self-created.
5. **Imposition of conditions.** The board of appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

SECTION 49. PROCEDURE

1. The Board of Appeals shall act in strict accordance with the procedure specified by §267-a of the Town Law of the State of New York and by this local law. In addition, the Zoning Board of Appeals may, by resolution, adopt rules and official forms not inconsistent with Town Law §267-a to govern practices and proceedings. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board. Every appeal or application shall refer to the specific provisions of this law 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, as the case may be.
2. An appeal shall stay all proceedings and furtherance of the action appealed from, unless the Zoning/Code Enforcement Officer certifies for the Board of Appeals after notice of such appeal shall have been filed, that by reason of the fact stated in the certificate, a stay, would in his opinion, cause imminent peril to life or property in which case proceedings shall not be stayed otherwise than by restraining order, which may be granted by the Board of Appeals or by the Supreme Court on application on notice to the Zoning/Code Enforcement Officer and on due cause shown.

3. The Zoning Board of Appeals shall schedule a public hearing on appeals for variances within 32 days of receipt of a complete application. Notice of the hearing upon any appeal or application pending before the Zoning Board of Appeals shall be given as follows:
 - A. By publication once in the official newspaper of the Town of Amsterdam at least 5 days before the hearing.
 - B. By sending the notice by regular mail to all the owners of property within 500 feet of the property in question, including all adjoining property owners, at least 10 days before the hearing. Service by mail shall be made by the applicant or appellant who shall submit proof of mailing in the form of original United States Post Office certificates of mailing.
 - C. Pursuant to General Municipal Law §239-NN, if a use variance application concerns property within 500 feet of the Town's municipal boundaries, a copy of the public hearing notice shall be provided by mail or electronic submission to the Clerk of the adjoining municipality at least ten days before the hearing.
 - D. Pursuant to General Municipal Law §239-M if applicable, a copy of the public hearing notice shall be sent to the Montgomery County Planning Board at least 5 days before the hearing, accompanied by a full statement of the proposed action.
4. The Board of Appeals shall act on variance requests within 62 days of the close of the public hearing, unless this time period is extended by mutual consent of the applicant and the Board. Every decision by the Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case. Each such resolution shall be filed within 5 days in the office of the Town Clerk by case number and one of another of the following headings: Interpretations or Variances; together with all documents pertaining thereto. The Board of Appeals shall notify the Town Board of each variance granted under the provisions of this Law.

ARTICLE XIII – AMENDMENTS

SECTION 50. AMENDMENTS

The Town Board may, from time to time, on its own motion, amend, supplement, repeal or change the regulations and district boundaries established by this Local Law.

Whenever the owners of fifty (50) percent or more of frontage in any district or part thereof included in such change shall present a petition signed and acknowledged to the Town Board requesting an amendment, supplement or change of the regulation prescribed such district or part thereof, it shall be the duty of the Town Board to vote upon said within ninety (90) days after the filing of the same by the petitioners with the Town Clerk.

The Planning Board may, by resolution, propose an amendment to the Town Board suggesting a change or repeal of specific portions of the regulations. Within ninety (90) days from the time such resolution is filed with the Town Clerk it shall be the duty of the Board to vote on such proposed amendment.

SECTION 51. REFERRAL OF AMENDMENTS TO TOWN PLANNING BOARD

1. All proposed amendments, supplements or changes originating by petition, or by motion of the Town Board, shall be referred to the Town Planning Board for a report and recommendation thereon. The Town Planning Board shall submit its report within sixty (60) days after receiving such referral. Failure of the Planning Board to report within the required time may be deemed to be approval of the proposed amendment.
2. Said proposed amendment, supplements, or changes should be referred to the Montgomery County Planning Board as provided for under Article 12-B §239-M of the General Municipal Law.

SECTION 52. HEARING ON PROPOSED AMENDMENT

Before any amendment, supplement or change in the regulations or district boundaries, there shall be a public notice and hearing thereon as provided by law. The notice of hearing shall be published in the official newspaper at least ten (10) days prior to the hearing. Notice shall also be provided to municipalities and entities within 500' of the affected property, as specified under Town Law §264. Such hearing may be held by the Town Board, by a committee of the Board, or by the Planning Board on request of the Town Board.

SECTION 53. ADOPTION OF AMENDMENT

After the public hearing, and referral to and report by the Planning Board, a majority vote of the members of the Town Board shall be required to amend the Zoning Law except as described in Section 54, Protest Petition.

SECTION 54. PROTEST PETITIONS

If a protest against a proposed amendment, supplement or change is presented to the Town Board, duly signed and acknowledged by the owners of twenty (20) percent or more of the area of the land included in such proposed change, or by the owners of twenty (20) percent or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty (20) percent or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of three fourths of the Town Board.

ARTICLE XIV – MISCELLANEOUS

SECTION 55. PERIODIC REVIEW OF ZONING LAW

From time to time, at intervals of not more than five (5) years, the Planning Board shall re-examine the provisions of this Law and the location of district boundary lines and shall submit a report to the Town Board, recommending such changes or amendments, if any, which may be desirable in the interest of public safety, health, convenience, necessity or the general welfare.

SECTION 56. VALIDITY AND SEVERABILITY

The invalidity of any section or provision of this Law shall not invalidate any other section or provision thereof. Should any section or provisions of this Local Law be declared by any court to be unconstitutional or invalid, such declaration shall not affect the validity of this Local Law as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

SECTION 57. INTERPRETATION

In their interpretation and application, the provisions of this Law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, or the general welfare. Whenever the requirements of this Law are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive, or that imposing the higher standard shall govern.

SECTION 58. WHEN EFFECTIVE

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

SECTION 59. REPEALER

This local law shall supercede the Zoning Ordinance of the Town of Amsterdam adopted in 1972, and all amendments thereto, with the provision that violations of such Zoning Ordinance of 1972, and all amendments thereto, shall remain violations to the extent that the matters in violation do not conform to the provisions of this local law.

ZONING DISTRICTS	PERMITTED USES (See Article IV – Use Regulations for Complete List)		SPECIAL PERMIT USES Permitted by the Planning Board	MINIMUM LOT SIZE		LOT COVERAGE (Maximum Percent)	MIN. LIVING AREA* (Square Feet)	BUILDING HEIGHT (Maximum)		YARD DIMENSIONS (Minimum in Feet)			
				Area in Sq. Ft.	Width in Feet †			Stories	Feet	Front	Side	Rear	
R-1 Residence	One-family dwelling except mobile home	w/public sewer or water		20,000	100	20	850*	2½	35	50	10	50	
		w/out public sewer or water		65,000	200	20	850*	2½	35	50	10	50	
	Church, parish house, convent			50,000	250	25	---	---	---	50	25	50	
	Community park or playground			---	---	---	---	---	---	---	---	---	
	Public building, library			---	---	---	---	---	---	50	25	50	
	Existing farm, nursery or truck garden			---	---	---	---	---	---	---	---	---	
	Customary home occupation			---	---	---	---	---	---	---	---	---	
	Customary accessory use or building			---	---	---	---	1	15	---	---	---	
	Family & Group Family Day Care as acc. use			---	---	---	---	---	---	---	---	---	
	Mobile home as acc. use to farm operation			---	---	---	---	2½	35	50	25	50	
	Small Scale Solar System as Accessory Use		Utility Scale Solar System	SEE SOLAR ENERGY REGS - SECTION 35									
			Accessory Dwelling Unit		Same as one-family dwelling			400	1	15	50	10	50
			Bed & Breakfast Est.		Same as one-family dwelling			850*	2½	35	50	10	50
			Public, priv. school, college		5 acres	500	25	---	2	35	50	50	50
Golf course/ country club				75 acres	---	---	---	2½	35	100	50	100	
Public utility station or str.				---	---	---	---	---	---	---	---	---	
Nursing home, hospital, Asst Living Fac, Sr Housing				5 acres	200	25	---	3	45	50	50	50	
Kennels				10 acres	200	20	---	2	30	50	200	200	
Pleasure Horse				2 ac/horse	SEE EQUINE ZONING REGS - SECTION 32B			---	---	---	75	100	100
Small Wind Energy Facility			5 acres	SEE W.E.F. REGS - SECTION 36			---	---	---	1½ times Tower Height			
R-2 Residence	R-1 Permitted Uses			SAME AS ABOVE									
	Two-family dwelling	w/public sewer or water		20,000	100	20	720/DU	2½	35	50	10	50	
		w/out public sewer or water		3 acres	200	20	720/DU	2½	35	50	10	50	
	Multiple family dwelling – (max 10 DUs/ac, max 12 DUs/group structure)			5 acres	500	25	720/DU	3	45	50	50	50	
	Town Houses/Condominiums – (max 4 DUs/ac, max 8 DUs/group structure)			5 acres	500	25	850/DU	2½	35	50	50	50	
	Small Scale Solar System as Accessory Use		Utility Scale Solar System	SEE SOLAR ENERGY REGS - SECTION 35									
			Accessory Dwelling Unit		Same as one-family dwelling			400	1	15	50	10	50
			Bed & Breakfast Est.		Same as one-family dwelling			850	2½	35	50	10	50
			Public, priv. school, college		5 acres	500	25	---	2	35	50	50	50
			Golf course/ country club		75 acres	---	---	---	2½	35	100	50	100
Public utility station or str.				---	---	---	---	---	---	---	---	---	
Nursing home, hospital, Asst Living Fac, Sr Housing				5 acres	200	25	---	3	45	50	50	50	
Pleasure Horse			2 ac/horse	SEE EQUINE ZONING REGS - SECTION 32B			---	---	---	75	100	100	
Funeral Home			65,000	200	20	---	2½	35	50	10	50		
R-M Mobile Home	One-family dwelling or single mob home	w/public sewer or water		20,000	100	20	720	2½	35	50	10	50	
		w/out public sewer or water		65,000	200	20	720	2½	35	50	10	50	
	Two family dwelling	w/public sewer or water		20,000	100	20	720/DU	2½	35	50	10	50	
		w/out public sewer or water		3 acres	200	20	720/DU	2½	35	50	10	50	
	Mobile Home Park			10 acres	500	20	580	1	15	50	50	50	
	Mobile Home in Park			7,000	50	20	580	1	15	15	15	15	
	Customary accessory use or building			---	---	---	---	1	15	---	---	---	
	Community park or playground			---	---	---	---	---	---	---	---	---	
Farm operation, nursery or truck garden			---	---	---	---	---	---	---	---	---		
Small Scale Solar System as Accessory Use		Utility Scale Solar System	SEE SOLAR ENERGY REGS - SECTION 35										
		Public utility station or str.	---	---	---	---	---	---	---	---	---		
A Agriculture	R-1 and R-2 Permitted Uses			SAME AS ABOVE									
	Farm, nursery or truck garden			---	---	---	---	---	---	---	---	---	
	Boarding or rooming house	w/public sewer or water		20,000	100	20	---	2½	35	50	10	50	
		w/out public sewer or water		3 acres	200	20	---	2½	35	50	10	50	
	Picnic grove, fish or game club			---	---	---	---	---	---	---	---	---	
	Public utility station or structure			---	---	---	---	---	---	---	---	---	
	Customary agricultural operation			---	---	---	---	---	---	50	10	50	
	Public stables			10 acres	---	---	---	2½	35	50	50	50	
	Bed & Breakfast Establishment			Same as one-family dwelling			850	2½	35	50	10	50	
	Personal Wireless Service Facility			SEE PWSF OVERLAY DISTRICT - SECTION 15									
	Small Scale Solar System as Accessory Use		Utility Scale Solar System	SEE SOLAR ENERGY REGS - SECTION 35									
			Airport		100 acres	200	---	---	2½	35	100	100	100
			Private Airfield		75 acres	200	---	---	2½	35	100	100	100
			Camping grounds		---	---	---	---	---	---	---	---	---
			Kennels		5 acres	200	20	---	2	30	50	50	50
Accessory Dwelling Unit				Same as one-family dwelling			400	1	15	50	10	50	
Animal Hospital				40,000	200	25	---	2½	35	50	50	50	
Funeral Home				65,000	200	20	---	2½	35	50	25	50	
Golf course/country club				75 acres	---	---	---	2½	35	100	50	100	
Self-Storage Units				---	---	---	---	1	15	25	25	25	
Public, priv. school, college				5 acres	500	25	---	2	35	50	50	50	
Nursing home, hospital, Asst Living Fac, Sr Housing			5 acres	200	25	---	3	45	50	50	50		
Sm/Lg Wind Energy Facility			5 acres	SEE W.E.F. REGS - SECTION 36			---	---	---	1½ times Tower Height			
PUD Planned Unit Development			SEE PLANNED UNIT DEVELOPMENT – SECTION 14						Min. exterior yards on district bounds (may req. larger)				
										50	50	50	

* In R-1 minimum living area is 850 square feet; minimum first floor living area is 600 square feet if structure is more than one story.
 ** Unless joined. (Max. of 3 in B-2)
 † See definitions of Lot Width and Flag Lots. Lot Width is not the same as road frontage, but is measured at a setback from the front property line equal to the required front yard.
 NOTES: Regulations apply to all uses in the district unless indicated by a dash (---) which means either no minimum or maximum or not applicable, except for conditions imposed for a special use permit.
 DU means Dwelling Unit, MH means Mobile Home.
 This schedule is not necessarily all inclusive. Refer to Zoning Law text for more detail.

ZONING DISTRICTS	PERMITTED USES (See Article IV – Use Regulations for Complete List)		SPECIAL PERMIT USES Permitted by the Planning Board	MINIMUM LOT SIZE		LOT COVER-AGE (Maximum Percent)	MIN. LIVING AREA* (Square Feet)	BUILDING HEIGHT (Maximum)		YARD DIMENSIONS (Minimum in Feet)			
				Area in Sq. Ft.	Width in Feet †			Stories	Feet	Front	Side	Rear	
B-1 Business	Retail store or shop			---	---	25	---	2	30	25	10**	30	
	Personal service shop			---	---	25	---	2	30	25	10**	30	
	Launderette or dry cleaning plant			---	---	25	---	2	30	25	10**	30	
	Bank			---	---	25	---	2	30	25	10**	30	
	Professional Office			---	---	25	---	2	30	25	10**	30	
	Restaurant			---	---	25	---	2	30	25	20**	30	
	Motel, Hotel			---	---	25	---	3	45	25	20**	30	
	Bowling alley			---	---	25	---	2	30	25	20**	30	
	Funeral home			---	---	25	---	2	30	25	25**	30	
	Public Utility Station or structure			---	---	---	---	---	---	---	---	---	
	Automobile, boat, farm implement, MH or trailer sales/ rental for off premises use only			---	---	25	---	2	30	50	20**	50	
	Fuel, feed, lumber, seed, fertilizer, construction or building materials sales or storage			---	---	25	---	2	30	50	20**	50	
	Cabinet, elect., heating, plumbing, AC shop			---	---	25	---	2	30	50	20**	50	
	Gasoline station, public garage			40,000	200	20	---	2	30	50	25	50	
	Veterinary, animal hospital, kennel			40,000	200	25	---	2	30	50	20	50	
	Wholesale Business			---	---	25	---	2	35	50	20	50	
	Shopping Center			---	---	25	---	2	35	50	20**	50	
	Child Day Care Center			---	---	25	---	2	30	50	20	50	
	Personal Wireless Service Facility			SEE PWSF OVERLAY DISTRICT - SECTION 15									
	Small Scale Solar System as Accessory Use		Utility Scale Solar System	SEE SOLAR ENERGY REGS - SECTION 35									
		Car Wash	---	---	25	---	1	15	50	---	---		
		Warehouse	---	---	25	---	---	---	50	---	---		
		Self Storage Units	---	---	25	---	1	15	25	25	25		
		Light Manufacturing	---	---	25	---	---	---	50	50	100		
		Nursing home, hospital, Asst Living Fac, Sr Housing	5 acres	200	25	---	3	45	50	50	50		
		Dwelling unit (not MH) as acc. use to business	---	---	25	---	2½	35	50	---	---		
B-2 Restricted Business	Retail store or shop			---	---	25	---	2	30	25	10**	30	
	Personal service shop			---	---	25	---	2	30	25	10**	30	
	Professional offices			---	---	25	---	2	30	25	10**	30	
	Bank			---	---	25	---	2	30	25	10**	30	
	Funeral home			---	---	25	---	2	30	25	25**	30	
	One family dwelling except mobile home		w/public sewer or water	20,000	100	20	850	2½	35	50	10	50	
			w/out public sewer or water	65,000	200	20	850	2½	35	50	10	50	
	Two-family dwelling		w/public sewer or water	20,000	100	20	720/DU	2½	35	50	10	50	
			w/out public sewer or water	3 acres	200	20	720/DU	2½	35	50	10	50	
	Multiple family dwelling - (max 10 DUs/ac, max 12 DUs/group structure)			5 acres	500	25	500/DU	3	45	50	30	50	
	Townhouses, Condominiums - (max 4 DUs/ac, max 8 DUs/group structure)			5 acres	500	25	850/DU	2½	35	50	50	50	
	Bed & Breakfast Establishment			Same as one-family dwelling			850	2½	35	50	10	50	
	Customary home occupation			---	---	---	---	---	---	---	---	---	
	Customary accessory use or building			---	---	---	---	1	15	---	---	---	
	Restaurant			---	---	25	---	2	30	25	20**	30	
	Community Park or Playground			---	---	---	---	---	---	---	---	---	
	Family & Group Family Day Care as acc. use			---	---	---	---	---	---	---	---	---	
	Child Day Care Center			---	---	25	---	2	35	50	20**	50	
	Public Building			---	---	---	---	2½	35	50	10	50	
	Personal Wireless Service Facility			SEE PWSF OVERLAY DISTRICT - SECTION 15									
Small Scale Solar System as Accessory Use		Utility Scale Solar System	SEE SOLAR ENERGY REGS - SECTION 35										
		Dwelling unit (not MH) as acc. use to business	---	---	25	---	2	30	50	10**	50		
		Nursing home, hospital, Asst Living Fac, Sr Housing	5 acres	200	25	---	2 1/2	35	50	50	50		
		Self Storage Units	---	---	25	---	1	15	25	25	25		
		Public utility station or str.	---	---	---	---	---	---	---	---	---		
M-1 Manufacturing / Mixed Use	B-1 Permitted Uses			SAME AS B-1									
	Tool, die, pattern or machine shop			None	None	30	None	2	---	50	25	100	
	Manufacture or processing of food products			None	None	30	None	2	---	50	25	100	
	Manufacture of paper products			None	None	30	None	2	---	50	25	100	
	Manufacture or assembly of electrical or			None	None	30	None	2	---	50	25	100	
	Printing or publishing plant			None	None	30	None	2	---	50	25	100	
	Cold storage plant			None	None	30	None	2	---	50	25	100	
	Accessory uses			None	None	30	None	2	---	50	25	100	
	Public Utility Station or structure			---	---	---	---	---	---	---	---	---	
	Research and Development Center			None	None	30	None	2	---	50	25	100	
	Warehouse/Distribution Center			None	None	30	None	2	---	50	25	100	
	Transportation services, auto/truck rental			None	None	30	None	2	---	50	25	100	
	Self Storage Units			None	None	30	None	2	---	25	25	25	
	Small Scale Solar System as Accessory Use		Utility Scale Solar System	SEE SOLAR ENERGY REGS - SECTION 35									
			Manufacture of textile or leather goods	None	None	30	None	2	---	50	25	100	
		Manufacture of metal, conc, stone, plastic, paint, fiber or wood products	None	None	30	None	2	---	50	25	100		
		Adult Ent. Establishment	SEE ADULT ENTERTAINMENT ESTABLISHMENTS – SECTION 33										

** Unless joined. (Max. of 3 in B-2)

† See definitions of Lot Width and Flag Lots. Lot Width is not the same as road frontage, but is measured at a setback from the front property line equal to the required front yard.

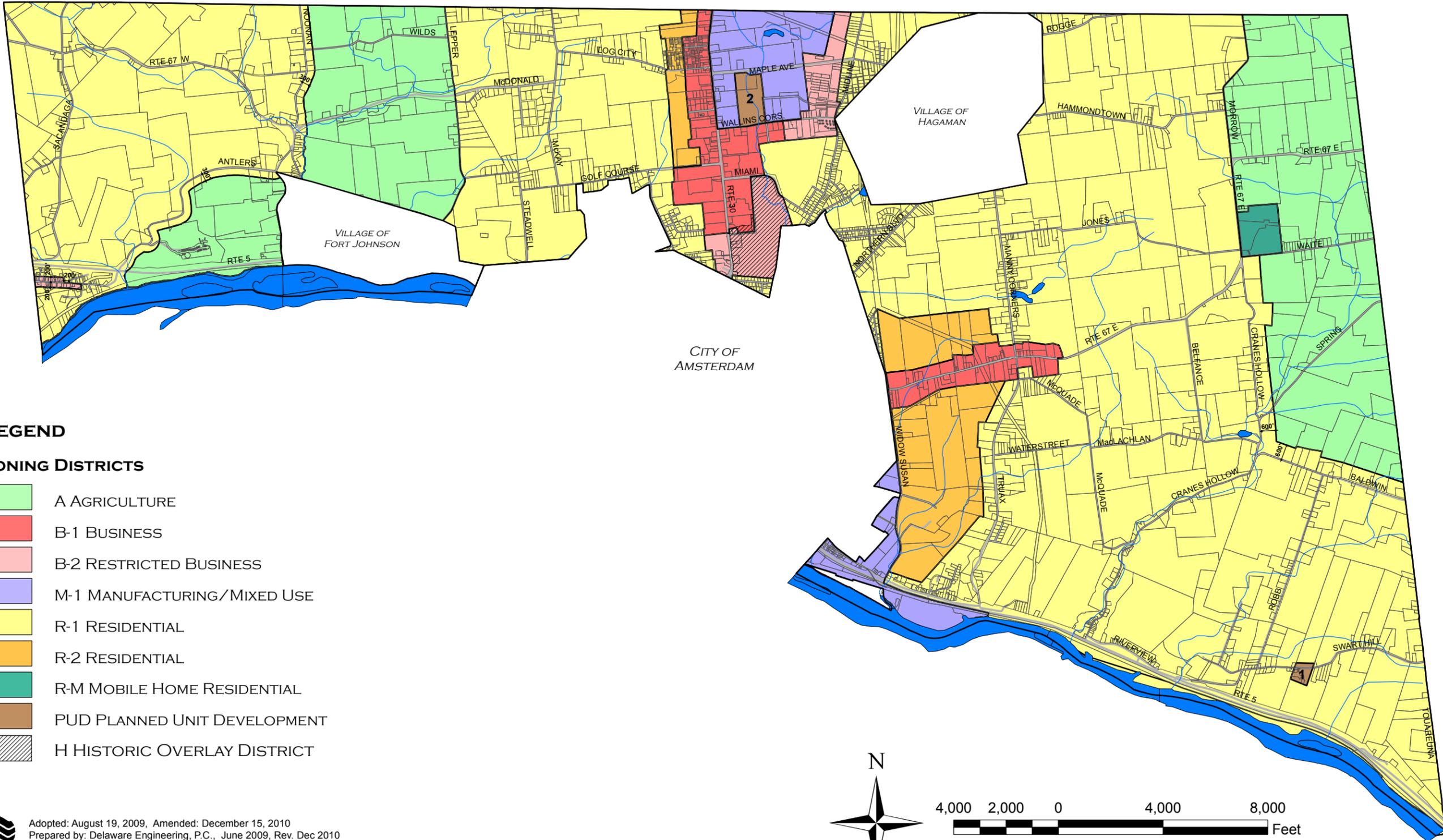
NOTES: Regulations apply to all uses in the district unless indicated by a dash (---) which means either no minimum or maximum or not applicable, except for conditions imposed for a special use permit.

DU means Dwelling Unit, MH means Mobile Home.

This schedule is not necessarily all inclusive. Refer to Zoning Law text for more detail.

TOWN OF AMSTERDAM ZONING MAP

AMENDED DECEMBER 15, 2010



LEGEND

ZONING DISTRICTS

-  A AGRICULTURE
-  B-1 BUSINESS
-  B-2 RESTRICTED BUSINESS
-  M-1 MANUFACTURING/MIXED USE
-  R-1 RESIDENTIAL
-  R-2 RESIDENTIAL
-  R-M MOBILE HOME RESIDENTIAL
-  PUD PLANNED UNIT DEVELOPMENT
-  H HISTORIC OVERLAY DISTRICT




 Adopted: August 19, 2009, Amended: December 15, 2010
 Prepared by: Delaware Engineering, P.C., June 2009, Rev. Dec 2010
 Source: Montgomery County Real Property Tax Service Agency, 20010

APPENDIX A

**PLANNED UNIT DEVELOPMENT NO. 1
MOUNT LORETTO NURSING HOME**

PUD DISTRICT NO. 1 – MOUNT LORETTO NURSING HOME

1. This Local Law shall be known and may be cited as "Local Law No. 2 of 1991, of the Town of Amsterdam amending the 'Zoning Ordinance of the Town of Amsterdam, Montgomery County, New York' and providing for the creation of Planned Unit Development District No.1 to be known as Mount Loretto Nursing Home."
2. The 'Zoning Ordinance of the Town of Amsterdam, Montgomery County, New York' adopted pursuant to Resolution 69 of 1972 adopted by the Town Board of the Town of Amsterdam, as subsequently revised, (the "Zoning Law") and the zoning map of the Town of Amsterdam, as set forth therein and made a part thereof, be and the same hereby is amended by changing, from Residence District (R-1), a portion thereof, as hereinafter described, and creating within the boundaries of said newly described area a Planned Unit Development District to be known as Mount Loretto Nursing Home (the "PUD district").
3. The area of the PUD district consists of 11.4 acres and is bounded and described as set forth in Exhibit "A", attached hereto and made a part hereof. The area is located in the eastern portion of the Town of Amsterdam, on both sides of Swart Hill Road, also known as County Road 1.
4. The development within the PUD district of a new nursing home and certain ancillary facilities by Mount Loretto Nursing Home, Inc. has been presented and is described according to plans filed with the Town Planning Board of the Town of Amsterdam. The locations of proposed and existing lots and buildings within the PUD district is generally shown on the drawing identified as "L-2" and prepared by the firm of Einhorn, Yaffee & Prescott, a copy of which is annexed hereto as Exhibit "B" (the "Site Plan").
5. Allowable uses in the PUD district shall consist of: a nursing home and ancillary facilities, including without limitation, a convent, residences, water supply and sewage treatment installations, a laundry, parking lots, and associated administrative and support uses.
6. Utilities shall be provided in accordance with an agreement between the owners of the parcels of land within the PUD district substantially in the form of the Utility Services Agreement, a copy of which is annexed hereto as Exhibit "C" with regard to public utilities, each owner shall have the responsibility of obtaining separate service from the utility provider.
7. Development of new facilities within the PUD district shall be substantially in accordance with the Site Plan. No more than three separate lots will be permitted within the PUD district on the south side of Swart Hill Road, and no more than one separate lot will be permitted within the PUD district on the north side of Swart Hill Road.
8. The maximum building height permitted within the PUD district will be that established by Schedule A to the Zoning Law for a nursing home permitted by special exception in the R-1 District, and yard dimensions allowed in the PUD district will be that established by Schedule A to the Zoning Law for a PUD. The above provisions shall not apply to existing buildings or to the new nursing home to be constructed; provided, however, that the new nursing home will not exceed four stories in height or be closer than forty (40) feet to any boundary of the PUD. The existing two (2) rows of white pines on the north boundary

adjacent to the new nursing home shall be maintained to provide suitable screening and buffer for the adjacent property.

9. A minimum of twenty-five (25%) percent of the total area of the PUD district shall be maintained as open space.
10. Parking areas shall be provided within the PUD district adequate to maintain compliance with the requirements of section 24 of the Zoning Law for a nursing or convalescent home.
11. Adequate signage and physical barriers (such as plantings, fencing, railings, etc.) will be installed to direct pedestrians crossing Swart Hill Road to the two crosswalks leading to the new parking areas on the north side of Swart Hill Road. The locations of such crosswalks, signage, and physical barriers will be acceptable to the Montgomery County Commissioner of Public Works (the "Commissioner"). In addition, the easternmost driveway entrance on the south side of Swart Hill Road shall be closed off; provided, however, that such closure need not preclude emergency use of such entrance. In any event, the Commissioner may direct that a chain or breakaway gate be installed across such entrance if he deems it necessary for the appropriate routing of pedestrian traffic.
12. For the purpose of regulating the development and use of property within the PUD district after initial construction and occupancy of the new facilities, any addition of one hundred fifty (150) square feet or more to an existing structure shall be approved by the Town Planning Board of the Town of Amsterdam pursuant to special permit procedures. Application for a one-time, single addition to or modification of an existing facility not exceeding one hundred fifty (150) square feet shall be in the form of a request for a building permit and shall be made to the appropriate Town of Amsterdam zoning official.
13. In the event all separate lots within the PUD district revert to single ownership of fee title, the Town Planning Board of the Town of Amsterdam may so notify the Town Board of the Town of Amsterdam and the Town Board of the Town of Amsterdam may, on its own motion, institute a zoning map amendment to return the PUD district to its former classification or a classification suitable for use of the former PUD district provided for in section 5 hereof.
14. Before construction of any building in the PUD district and before any building permit is issued relating thereto, the final plans and specifications for each such building shall be submitted to the Town Planning Board and Town Board for their approval, which shall have been granted.
15. All improvements in the PUD district shall be subject to the direction and control of a duly licensed architect and/or engineer and constructed pursuant to plans and specifications approved by duly licensed engineer and/or architect and in strict compliance with the New York state Building Code. When completed, any such improvements shall be certified as having been constructed in full compliance with the New York state Building Code. The engineer and/or architect performing the work herein described shall be employed by and at the sole expense of the owner of the property upon which the improvement is constructed. All improvements shall be subject to inspection and approval by the appropriate officials of the Town of Amsterdam.

16. The Town Clerk is hereby authorized and directed to change the official zoning map of the Town of Amsterdam by designating thereon the PUD district hereby established.

17. This local law shall take effect immediately upon its filing in the office of the New York state Secretary of State and compliance with any applicable notification requirements.

EXHIBIT A

All those two certain parcels of land situate in the Town of Amsterdam, Montgomery County, New York, lying on the southerly and northerly sides of Swart Hill Road, being a portion of Lot No. 4 in the Third Allotment of the Kayaderosseras Patent, and being more particularly bounded and described as follows:

PARCEL A

Beginning at an iron rod set in the southerly bounds of Swart Hill Road at the northwesterly corner of the herein- described parcel being also in the easterly bounds of lands now or formerly of Jerrold and Dolores Krutz; running thence from the point of beginning easterly along the southerly bounds of Swart Hill Road the following four courses:

1. South 73 degrees 04 minutes 52 seconds East 154.35 feet to an iron rod;
2. South 74 degrees 07 minutes 30 seconds East 430.43 feet to an iron rod;
3. South 80 degrees 28 minutes 50 seconds East 120.41 feet to an iron rod, and
4. South 86 degrees 47 minutes 48 seconds East 8.03 feet to an iron rod

set marking the northeasterly corner of the herein-described parcel, being also the northwesterly corner of land now or formerly of Philip R. Arnold; thence South 33 degrees 27 30 seconds West along the westerly bounds of said lands of Arnold and, in part, along a stone wall, for a distance of 685.89 feet to an iron rod; thence North 55 degrees 36 minutes 30 seconds East for a distance of 675 feet, more or less, to a point in the easterly bounds of lands now or formerly of Jerrold and Dolores Krutz; thence North 33 degrees 27 minutes 30 seconds East along the easterly bounds of said lands of Krutz for a distance of 450 feet, more or less, to the point of beginning; and containing 8 1/2 acres, more or less.

PARCEL B

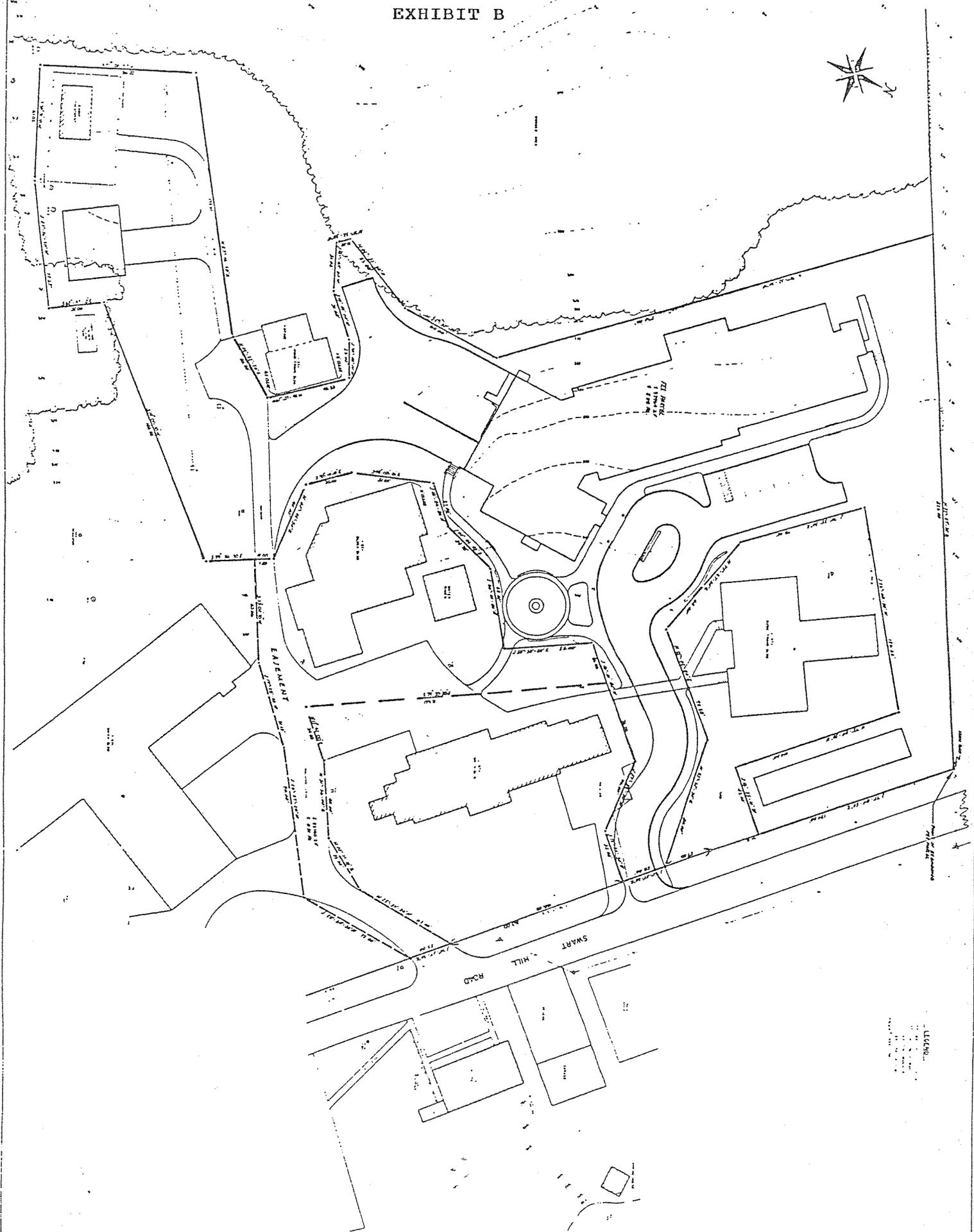
BEGINNING at an iron rod set in the northerly bounds of Swart Hill Road at the southeasterly corner of the hereindescribed parcel, being also the southwestly corner of lands now or formerly of William J. Myers, Jr., and being situate at a distance of 57.31 feet on a course of North 33 degrees 27 minutes 30 seconds East from an iron rod marking the northeasterly corner of the above-described Parcel A; running thence from the point of beginning westerly along the northerly bounds of Swart Hill Road the following four courses:

1. North 86 degrees 47 minutes 48 seconds West 34.18 feet to an iron rod;
2. North 80 degrees 28 minutes 50 seconds West 114.93 feet to an iron rod;
3. North 74 degrees 07 minutes 30 seconds West 427.23 feet to an iron rod; and
4. North 73 degrees 04 minutes 52 seconds West 139.20 feet to an iron rod set marking the southwestly corner of the herein-described parcel,

being also the southeasterly corner of lands now or formerly of Jerrold and Dolores Krutz;

thence North 33 degrees 27 minutes 30 seconds East along the easterly bounds of said lands of Krutz for a distance of 175.00 feet to a point; thence South 74 degrees 07 minutes 30 seconds West for a distance of 710 feet, more or less, to a point in the westerly bounds of said lands now or formerly of William J. Myers, Jr., thence South 33 degrees 27 minutes 30 seconds West along said lands of Myers for a distance of 150 feet, more or less, to the point of beginning; and containing 2-2/3 acres, more or less.

EXHIBIT B



MT. LORETTO NURSING HOME
 AMSTERDAM, NEW YORK
 PARTIALLY MORTGAGED PARCEL, & ACCESS EASEMENT



Yallice Prescott
 REAL ESTATE
 1000 N. 10TH ST.
 SUITE 100
 AMSTERDAM, NY 12005
 TEL: (518) 838-2200
 FAX: (518) 838-2201

ENHORN
 YALICE
 PRESCOTT



EXHIBIT C

UTILITY SERVICES AGREEMENT

THIS AGREEMENT made as of the ___ day of _____, 1991 between Mt. Loretto Nursing Home, Inc. ("Mt. Loretto") and Sisters of the Resurrection, New York, Inc. ("SORNY").

WITNESSETH THAT:

WHEREAS, Mt. Loretto owns property within the Town of Amsterdam and Montgomery County, New York upon which it is developing a new nursing home and certain appurtenant facilities to serve such new nursing home and certain existing improvements located upon the property, including a new sewage treatment plant with a capacity of 25,000 gallons per day (the "Plant") all of which are more fully described in the _____, a copy of which is annexed hereto as Exhibit "A" (the "Project Description"); and

WHEREAS, the new nursing home, the Plant, and a portion of the other appurtenant facilities (the "financed facilities") are being financed by the issuance, pursuant to a trust indenture, of bonds by the New York State Medical Care Facilities Finance Agency ("MCFFA"), repayment of which will be guaranteed by the United States Department of Housing and Urban Development; and

WHEREAS, the lien associated with the trust indenture, with limited exceptions, must attach to that portion of the property upon which the financed facilities will be located as shown on the annexed Exhibit "B" (the "new parcel") but need not attach to the remainder of the property; and

WHEREAS, in connection with the aforementioned MCFFA financing, Mt. Loretto will deed all of the property other than the new parcel (the "conveyed parcel") to SORNY prior to or contemporaneously with the issuance of the bonds, and

WHEREAS, Mt. Loretto will retain, pursuant to the aforementioned deed, certain interests, including an easement and a license, in and to the conveyed parcel; and WHEREAS, the new parcel and the conveyed parcel utilize and will continue to utilize common permanent utility installations not readily separable without undue cost and expense; and

WHEREAS, Mt. Loretto and SORNY desire to continue joint and mutual use of said permanent utility installations at minimum cost-and to the benefit of both in accordance with the terms and conditions herein set forth;

NOW, THEREFORE, in consideration of the foregoing, the covenants, promises, and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, the parties agree as follows:

ARTICLE I: SUPPLY OF WATER

1. SORNY represents and warrants that the facilities relating to the supply of water located within the boundaries of the easement, including, without limitation, the well, water tower and connecting lines (the "easement water systems") are sufficient to provide the quantity

and quality of water necessary to operate the financed facilities as contemplated in the Project Description and as designed in accordance with drawing U-1 prepared by Morse Engineering and attached hereto as Exhibit "C" (the "Utility Drawing"). To the extent the easement water systems as shown on the Utility Drawing do not constitute financed facilities, SORNY shall construct and complete same in accordance with the Utility Drawing and the applicable specifications at its cost and expense contemporaneously with the construction and completion of the financed facilities.

2. Mt. Loretto shall construct and complete the facilities relating to the supply of water located within the boundaries of the new parcel (the "new parcel water systems"), including the water storage tank and connecting lines in accordance with the Utility Drawing and the applicable specifications at its cost and expense.
3. Upon completion of construction of the facilities relating to the supply of water, including the easement water systems and the new parcel water systems, SORNY shall supply all water necessary to operate the financed facilities as contemplated in the Project Description and as designed in accordance with the Utility Drawing.
4. Upon completion of construction of the new parcel water systems, Mt. Loretto shall allow the new parcel water systems to contribute the water necessary to service the facilities located on the conveyed parcel as contemplated in the Project Description and as designed in accordance with the Utility Drawing.

ARTICLE II: WASTEWATER TREATMENT AND DISPOSAL

1. Mt. Loretto shall construct and complete the facilities relating to the treatment and disposal of wastewater located within the boundaries of the new parcel (the "new parcel wastewater systems"), including the Plant and connecting lines, in accordance with the Utility Drawing and the applicable specifications, at *its* cost and expense.
2. Upon completion of construction of the new parcel wastewater systems, Mt. Loretto shall allow the facilities relating to the treatment and disposal of wastewater located on the conveyed parcel to contribute up to ___gallons per day of wastewater to the Plant; provided, however, that it shall be a condition of Mt. Loretto's obligation that such contribution shall at all times be in compliance with the applicable permits obtained by Mt. Loretto in connection with the new parcel wastewater systems and shall never contain materials, substances, or wastes that are deemed hazardous or toxic under federal, state, or local law or regulation.
3. Upon completion of construction of the new parcel wastewater systems, SORNY shall permit the discharge of treated effluent from the Plant through the existing effluent line located on the conveyed parcel and onto that portion of the conveyed parcel associated with such line, and, further, SORNY expressly releases Mt. Loretto from all liability for damages, costs, penalties, fees, or expenses of any kind arising out of Mt. Loretto's use of the existing effluent lien and the conveyed parcel for the discharge of wastewater.

ARTICLE III: PARKING

1. SORNY represents and warrants that the facilities relating to parking located within the boundaries of the license (the "licensed parking area") are sufficient to provide parking for _____ medium-sized passenger vehicles.
2. Upon commencement of operation of the new nursing home, SORNY shall permit Mt. Loretto to use exclusively the licensed parking area for employees, staff, visitors, patients, doctors and other persons associated with the financed facilities.

ARTICLE IV: REPAIRS AND MAINTENANCE; PERMITS

1. SORNY shall repair and maintain the easement water systems and the licensed parking area at its cost and expense. Mt. Loretto shall repair and maintain the new parcel water systems and the new parcel wastewater systems at its cost and expense.
2. Each party shall be responsible for obtaining and maintaining all governmental permits, authorizations, and approvals necessary to allow it to fulfill its obligations hereunder.

ARTICLE V: CHARGES FOR SERVICES; METERING

1. Provided that a party receiving services pursuant to this Agreement is not in default hereunder, such party shall not be required to make payment to the party furnishing such service.
2. Mt. Loretto may install a meter or other measuring device to enable it to determine whether SORNY is in compliance with the provisions of Article II(2) set forth above.

ARTICLE VI: SUCCESSORS AND ASSIGNS; ENCUMBRANCES

1. Neither party may assign its rights under this Agreement without the prior written consent of the other party; provided, however, that Mt. Loretto may assign this Agreement in connection with the MCFFA financing without the prior written consent of SORNY (the "financing assignment"),
2. SORNY acknowledges that, as a part of the financing assignment, the assignee or assignees of Mt. Loretto's rights under this agreement may not be bound by Mt. Loretto's duties under this Agreement and that Mt. Loretto will only be required to use its best efforts to obtain an agreement that SORNY's rights under this Agreement shall not be disturbed by such assignee or assignees provided that SORNY continues to fulfill its obligations hereunder.
3. SORNY shall not encumber the easement or the license and shall not permit the easement or the license to become encumbered in any manner, including, without limitation, the filing of a mechanic's lien or the imposition of mortgages or security interests.
4. Except as otherwise provided above, this Agreement shall inure to the benefit of and shall bind the successors and assigns of the parties to this Agreement.

ARTICLE VII: COOPERATION; EMERGENCIES

1. Mt. Loretto and SORNY shall cooperate fully in the inauguration of the new utility facilities and services serving the new parcel and the conveyed parcel and in the discontinuance or abandonment of the superseded utility facilities and services.
2. Upon the occurrence of an event of force majeure affecting the ability to furnish the utility services provided for in this Agreement, SORNY and Mt. Loretto shall fully cooperate in the efforts to overcome such event of force majeure and, in the event services can be provided on a diminished basis, neither party shall endeavor to furnish services preferentially to its own benefit.

ARTICLE VIII: MISCELLANEOUS

1. This Agreement shall be construed in accordance with the laws of the State of New York.
2. This Agreement embodies the entire agreement relating to utility services of the parties hereto, and this agreement may not be modified except by a writing subscribed to by both SORNY and Mt. Loretto.

APPENDIX B

**PLANNED UNIT DEVELOPMENT NO. 2
GIARDINO PUD**

PUD DISTRICT NO. 2 – GIARDINO PUD

1. This Local Law shall be known and may be cited as “Local Law No. 2 of 2016” of the Town of Amsterdam amending the Zoning Law of the Town of Amsterdam, Montgomery County, New York, and modifying the Planned Unit Development District No. 2 known as the Giardino PUD.
2. The ‘Zoning Ordinance of the Town of Amsterdam, Montgomery County, New York’ adopted pursuant to Resolution 69 of 1972 adopted by the Town Board of the Town of Amsterdam, as subsequently revised, (the “Zoning Law”) and the zoning map of the Town of Amsterdam were amended by Local Law No. 7 of 2010 of the Town of Amsterdam to provide for the creation of the Planned Unit Development District No. 2, to be known as the Giardino PUD (the “PUD district”).
3. The area of the PUD district consists of 42.97 acres and is bounded and described as set forth in Exhibit “A”, attached hereto and made a part hereof. The area is located in the eastern portion of the Town of Amsterdam and being easterly of NYS Route 30, northerly of Wallins Corners Road and southerly of Maple Avenue Extension.
4. The development within the PUD district has been presented and is described according to plans filed with the Town Planning Board of the Town of Amsterdam. The locations of proposed lots and buildings within the PUD district is generally shown on the drawing identified as “PUD Amendment Plan – Giardino PUD”, dated April 20, 2016, and prepared by the firm of Ingalls & Associates, LLP, a copy of which is annexed hereto as Exhibit “B”.
5. Allowable uses in the PUD district shall consist of Single-Family Residences (34), Apartments (200 units) and Senior Housing Apartments (30 units) along with associative parking and including without limitation water supply, sanitary sewer and storm sewer infrastructure.
6. All source utilities shall be provided from a public utility provider and each owner shall have the responsibility of obtaining separate service from the utility provider.
7. Development of new facilities within the PUD district shall be substantially in accordance with the PUD Amendment Plan. No further subdivision or development within the PUD district will be permitted.
8. The maximum building height and yard dimensions permitted within the PUD district will be that as set forth by the Zoning Law for a PUD, Section 14-Planned Unit Development in general or as stipulated below.

USE AND/OR TYPE	MIN. LOT SIZE		BUILDING HEIGHT		YARD DIMENSIONS		
	AREA	WIDTH	STORIES	FEET	FRONT	SIDE	REAR
COTTAGE HOME LOT	4,000 SQ. FT	40 FT.	2 1/2	35 FT.	15 FT	* 5 FT.	50 FT.
APARTMENTS	N/A		3	45 FT.	50 FT.	50 FT	50 FT.
SENIOR APARTMENTS	N/A		3	45 FT.	50 FT.	50 FT.	50 FT.

* An accessory structure may have a minimum side yard of 2 feet.

9. A minimum of thirty (30%) percent of the total area of the PUD district shall be maintained as open space. A minimum of 15% of the total land area of the PUD shall set aside for active/passive community recreation.
10. Parking areas shall be provided within the PUD district adequate to maintain compliance with the requirements of the Zoning Law, specific to the each proposed residential and commercial use.
11. Adequate signage and physical barriers (such as crosswalks, plantings, fencing, railings, etc.) will be installed to direct traffic and pedestrians within the roadway and parking areas. The locations of such crosswalks, signage and physical barriers will be acceptable to the Montgomery County Commissioner of Public Works (the "Commissioner").
12. For the purpose of regulating the development and use of property within the PUD district after initial construction and occupancy of the new facilities, any addition of one hundred fifty (150) square feet or more to an existing structure shall be approved by the Town Planning Board of the Town of Amsterdam pursuant to special permit procedures. Application for a one-time, single addition to or modification of an existing facility not exceeding one hundred fifty (150) square feet shall be in the form of a request for a building permit and shall be made to the appropriate Town of Amsterdam zoning official.
13. If after two (2) years from the date of approval of the Planned Unit Development District, site work and construction has not begun, this zoning amendment approval is revoked and the land will be returned to its former zoning classification.
14. Before construction of any building in the PUD district and before any building permit is issued relating thereto, the final plans and specifications shall be submitted to the Town Planning Board for Site Plan Approval.
15. All improvements in the PUD district shall be subject to the direction and control of a duly licensed architect and/or engineer and constructed pursuant to plans and specifications approved by duly licensed engineer and/or architect and in strict compliance with the New York state Building Code. When completed, any such improvements shall be certified as having been constructed in full compliance with the New York state Building Code. The engineer and/or architect performing the work herein described shall be employed by and at the sole expense of the owner of the property upon which the improvement is constructed. All improvements shall be subject to inspection and approval by the appropriate officials of the Town of Amsterdam.
16. The Town Clerk is hereby authorized and directed to change the official zoning map of the Town of Amsterdam by designating thereon the PUD district hereby established.
17. This local law shall take effect immediately upon its filing in the office of the New York state Secretary of State and compliance with any applicable notification requirements.

EXHIBIT A

All that piece or parcel of land situate in the Town of Amsterdam, County of Montgomery, State of New York, lying northerly of Wallins Corners Road – Co. Rte. 15, easterly of N.Y.S. Rte. 30, southerly of Maple Avenue Extension – Co. Rte. 39 and westerly of Midline Road and being more particularly bounded and described as follows:

Beginning at a point on the northerly line of Wallins Corners Road as appropriated in 1961 and also at its intersection with the division line between lands now or formerly of Lowe's Home Centers, Inc. (L. 1615 P. 28) on the west and lands now or formerly of Joseph T. Giardino and Loretta E. Giardino (L. 650 P. 221) on the east, said point also being the southwest corner of the herein described parcel, and running thence North $06^{\circ} 21' 12''$ West along said division line in part and also along lands now or formerly of Montgomery Center, LLC (L. 1277 P. 215) on the west for a distance of 1383.19 feet to a point; thence North $06^{\circ} 06' 30''$ West and through lands now or formerly of Joseph T. Giardino and Loretta E. Giardino (L. 1351 P. 117) for a distance of 618.73 feet to a point on the southerly line of Maple Avenue Extension – Co. Rte. 39 as appropriated in 1974, said point also being the northwesterly corner of the herein described parcel; thence easterly along the southerly line of Maple Avenue Extension – Co. Rte 39 the following five (5) courses and distances:

- 1.) Thence North $86^{\circ} 38' 40''$ East for a distance of 449.91 feet to a point;
- 2.) Thence South $59^{\circ} 00' 05''$ East for a distance of 141.08 feet to a point;
- 3.) Thence North $84^{\circ} 16' 02''$ East for a distance of 254.78 feet to a point;
- 4.) Thence North $84^{\circ} 51' 33''$ East for a distance of 129.31 feet to a point; and
- 5.) Thence North $71^{\circ} 07' 12''$ East for a distance of 63.00 feet to a point on the division

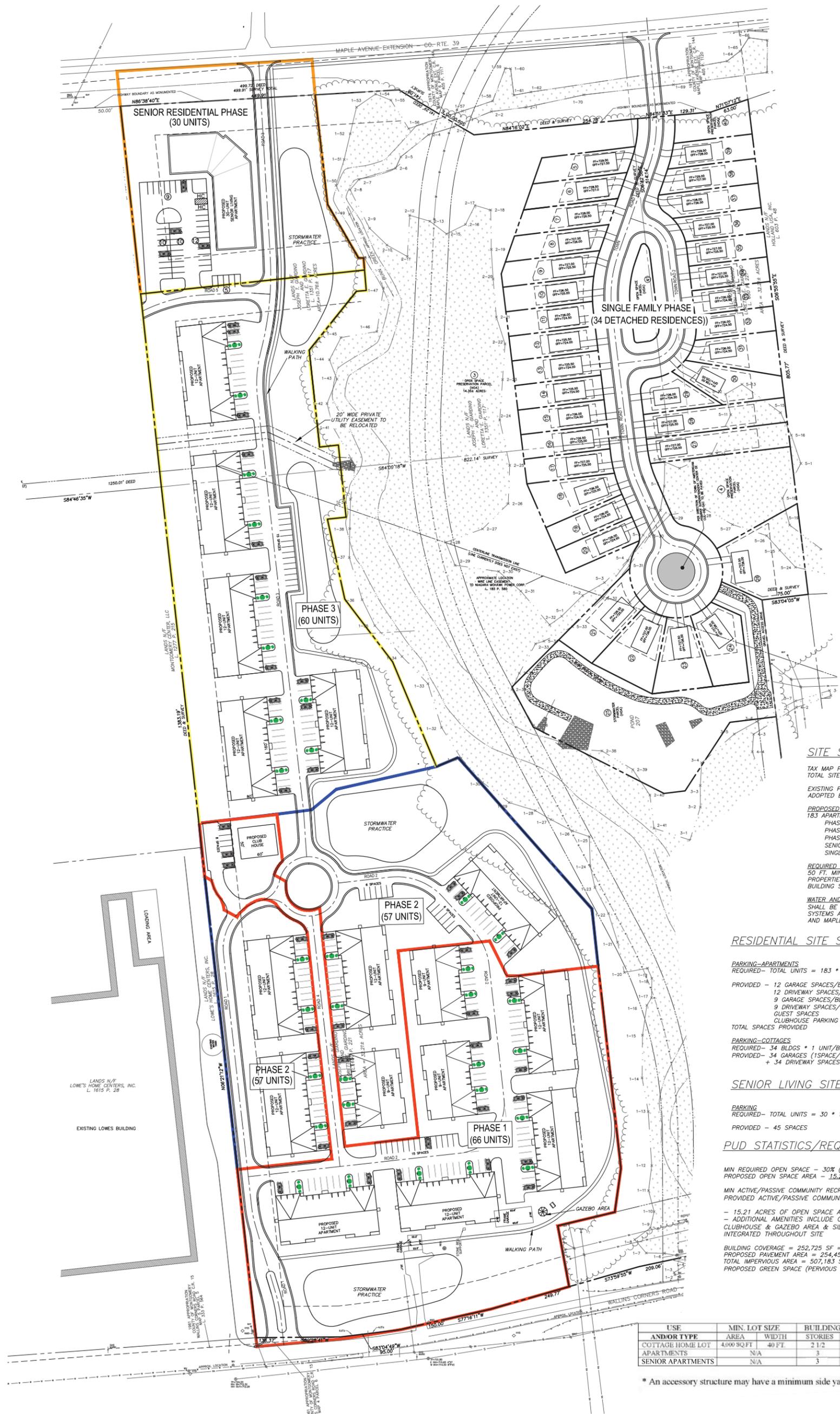
line between lands now or formerly of Holland USA, Inc. (L. 603 P. 48) on the east and lands now or formerly of Joseph T. Giardino and Loretta E. Giardino (L. 650 P. 221) on the west, said point also being the northeasterly corner of the herein described parcel; thence South $06^{\circ} 55' 55''$ East along said division line for a distance of 805.77 feet to a point, said point also being on the division line between lands now or formerly of Niagara Mohawk Power Corporation (L. 327 P. 352) on the south and east and lands now or formerly of Joseph T. Giardino and Loretta E. Giardino (L. 650 P. 221) on the north and west; thence along said division line the following two (2) courses and distances:

- 1.) Thence South $83^{\circ} 04' 05''$ West for a distance of 75.00 feet to a point; and
- 2.) Thence South $06^{\circ} 55' 55''$ East for a distance of 1035.00 feet to a point on the

northerly line Wallins Corners Road – Co. Rte. 15, said point also being the southeasterly corner of the herein described parcel; thence westerly along the northerly line of Wallins Corners Road – Co. Rte. 15 the following six (6) courses and distances:

- 1.) Thence South $87^{\circ} 06' 37''$ West for a distance of 119.49 feet to a point;
- 2.) Thence South $77^{\circ} 50' 43''$ West for a distance of 209.06 feet to a point;
- 3.) Thence South $73^{\circ} 59' 55''$ West for a distance of 249.77 feet to a point;
- 4.) Thence South $77^{\circ} 16' 11''$ West for a distance of 150.00 feet to a point;
- 5.) Thence South $83^{\circ} 04' 49''$ West for a distance of 95.00 feet to a point; and
- 6.) Thence South $89^{\circ} 28' 41''$ West for a distance of 136.37 feet to the point and place of

beginning, containing 42.97 acres of land, more or less.



SITE STATISTICS
 TAX MAP PARCEL - 25.00-1-9.1 & 25.00-1-10
 TOTAL SITE AREA - 42.97± ACRES
 EXISTING PROPERTY ZONING - PUD
 ADOPTED BY TOWN BOARD DECEMBER 15, 2010
PROPOSED USE
 183 APARTMENT UNITS
 PHASE 1 (66 UNITS)
 PHASE 2 (57 UNITS)
 PHASE 3 (60 UNITS)
 SENIOR RESIDENTIAL PHASE (30 UNITS)
 SINGLE-FAMILY PHASE (34 DETACHED RESIDENCES)
REQUIRED SETBACKS
 50 FT. MIN FROM PUD BOUNDARIES TO ALL ADJOINING PROPERTIES;
 BUILDING SETBACKS PER TABLE THIS SHEET
WATER AND SEWER
 SHALL BE CONNECTED TO MUNICIPAL (AMSTERDAM) SYSTEMS ALONG WALLINS CORNERS ROAD AND MAPLE AVE AT NYS RTE 30.

RESIDENTIAL SITE STATISTICS
PARKING-APARTMENTS
 REQUIRED- TOTAL UNITS = 183 * 2 SPACES PER UNIT = 366 REQ. SPACES
 PROVIDED - 12 GARAGE SPACES/BLDG * 13 BLDGS = 156 SPACES
 12 DRIVEWAY SPACES/BLDG * 13 BLDGS = 156 SPACES
 9 GARAGE SPACES/BLDG * 3 BLDGS = 27 SPACES
 9 DRIVEWAY SPACES/BLDG * 3 BLDGS = 27 SPACES
 GUEST SPACES = 42 SPACES
 CLUBHOUSE PARKING = 6 SPACES
 TOTAL SPACES PROVIDED = 414 SPACES
PARKING-COTTAGES
 REQUIRED- 34 BLDGS * 1 UNIT/BLDG = 34 UNITS * 2 SPACES = 68 REQ.
 PROVIDED- 34 GARAGES (1SPACE/GARAGE) = 34 SPACES
 + 34 DRIVEWAY SPACES = 68 SPACES

SENIOR LIVING SITE STATISTICS
PARKING
 REQUIRED- TOTAL UNITS = 30 * 1.5 SPACES PER UNIT = 45 REQ. SPACES
 PROVIDED - 45 SPACES

PUD STATISTICS/REQUIREMENTS
 MIN REQUIRED OPEN SPACE - 30% (12.98 AC)
 PROPOSED OPEN SPACE AREA - 15.21 ACRES
 MIN ACTIVE/PASSIVE COMMUNITY RECREATION - 15% (6.45 AC)
 PROVIDED ACTIVE/PASSIVE COMMUNITY RECREATION AREAS INCLUDE:
 - 15.21 ACRES OF OPEN SPACE AREA
 - ADDITIONAL AMENITIES INCLUDE COTTAGE GREEN AREA, APARTMENT CLUBHOUSE & GAZEBO AREA & SIDEWALK/WALKING PATH NETWORK INTEGRATED THROUGHOUT SITE
 BUILDING COVERAGE = 252,725 SF = 5.80± ACRES
 PROPOSED PAVEMENT AREA = 254,458 SF = 5.84± ACRES
 TOTAL IMPERVIOUS AREA = 507,183 SF = 11.64± ACRES
 PROPOSED GREEN SPACE (PERVIOUS COVER) = 31.33 ACRES (73% OF SITE)

USE AND/OR TYPE	MIN. LOT SIZE AREA	BUILDING HEIGHT STORIES	YARD DIMENSIONS FEET	YARD DIMENSIONS		
				FRONT	SIDE	REAR
COTTAGE HOME LOT	4,000 SQ FT	40 FT.	2 1/2	35 FT.	15 FT.	5 FT.
APARTMENTS	N/A	3	45 FT.	50 FT.	50 FT.	50 FT.
SENIOR APARTMENTS	N/A	3	45 FT.	50 FT.	50 FT.	50 FT.

* An accessory structure may have a minimum side yard of 2 feet.

NOTE: 48 HOURS PRIOR TO ANY CONSTRUCTION ACTIVITIES, THE CONTRACTOR SHALL CONTACT THE U.F.P.O. TO LOCATE ALL UNDERGROUND UTILITIES. 1-800-962-7962

FOR INFORMATION ONLY NOT FOR CONSTRUCTION

PUD AMENDMENT PLAN
 GIARDINO PUD
 MAPLE AVE EXT/WALLINS CORNERS RD
 TOWN OF AMSTERDAM
 COUNTY OF MONTGOMERY STATE OF NEW YORK
 DRAWN BY: PJY
 CADD FILE:
 DATE: APRIL 20, 2016
 CHECKED BY: DFI
 JOB NO. 09-083
 SCALE: 1" = 80'
 SHEET 1 OF 1

ingalls
 ingalls & associates, LLP
 engineering, environmental, surveying
 2603 GUILDERLAND AVENUE
 SCHENECTADY, N.Y. 12306
 PHONE: (518) 383-7725
 FAX: (518) 393-2324
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DAVID F. INGALLS JR., P.E.
 N.Y.S. LIC. NO. 064993

NO.	DATE:	REVISIONS	BY: