

TOWN OF ARCADIA ZONING LAW

Originally Adopted: December 15, 2020

TABLE OF CONTENTS

Article 1.	TITLE AND PURPOSE.	1
Sec. 1.1	Title	1
Sec. 1.2	Purpose	1
Article 2.	DEFINITIONS.	2
Article 3.	ZONING DISTRICTS, GENERALLY.	13
Sec. 3.1	Establishment of Districts	13
Sec. 3.2	Zoning Map	13
Sec. 3.3	District Boundaries	13
Sec. 3.4	Planned Development District	14
Article 4.	ZONING DISTRICT REGULATIONS.	19
Sec. 4.1	Schedules of Regulations	19
Sec. 4.2	Application of Regulations	19
Sec. 4.3	Residential “R” District Regulations	20
Sec. 4.4	General Business “GB” District Regulations	22
Sec. 4.5	Agricultural “A” District Regulations	25
Sec. 4.6	Industrial “I” District Regulations	30
Sec. 4.7	Floodplains	32
Article 5.	MISCELLANEOUS REGULATIONS AND REQUIREMENTS.	34
Sec. 5.1	Additional Yard and Area Regulations	34
Sec. 5.2	Permitted Exceptions to Height Regulations	34
Sec. 5.3	Accessory Uses	35
Sec. 5.4	Additional Requirements for Dwellings	35

Sec. 5.5	Off-Street Parking and Loading Requirements	36
Sec. 5.6	Grade and Drainage of Drives and Roadways	36
Sec. 5.7	Minimum Required Off-Street Parking	37
Sec. 5.8	Farm Animals	38
Sec. 5.9	Manure Storage	39
Sec. 5.10	Signs	40
Sec. 5.11	Outdoor Lighting	55
Sec. 5.12	Communication Towers	57
Sec. 5.13	Dumping	66
Sec. 5.14	Solid Waste Management Facilities	66
Sec. 5.15	[RESERVED]	67
Sec. 5.16	Building Permits and Certificates of Occupancy	67
Sec. 5.17	Fee Reimbursement	67
Sec. 5.18	Repair of Septic Systems	70
Sec. 5.19	[RESERVED]	70
Sec. 5.20	Completeness of Applications	70
Sec. 5.21	Storage Containers	70
Article 6.	ADDITIONAL REQUIREMENTS FOR SPECIFIED USES.	73
Sec. 6.1	Agricultural Activities in Residential “R” and General Business “GB” Districts	73
Sec. 6.2	Dwelling, Mobile Home in Agricultural “A” and Residential “R” Districts	73
Sec. 6.3	Home Occupation in all Districts	73
Sec. 6.4	Roadside Stands in all Districts	73

Sec. 6.5	In the "A", "R", and "GB" Districts, Outdoor Storage of No More Than One Each of the Following: Boat, Boat Trailer, Cargo Trailer, Camp Trailer, or Similar Equipment	75
Sec. 6.6	Light Manufacturing or Processing of Goods in General Business "GB" and Industrial "I" Districts	75
Sec. 6.7	Machine Shop in "GB" and "I" Districts	76
Sec. 6.8	Storage, Baling or Treatment of Junk, Rags, Bottles or Scrap Paper in "I" Districts	76
Sec. 6.9	Storage or Processing of Scrap Metal, Auto Graveyard, Storage of Secondhand Building Material in "I" Districts	76
Sec. 6.10	Accessory Use in All Districts	76
Sec. 6.11	Public Stable and Riding Academy in "A" Districts	76
Sec. 6.12	Ponds	76
Sec. 6.13	Adult Entertainment Uses	77
Sec. 6.14	Solar Energy Systems	77
Article 7.	SPECIAL USE PERMITS.	79
Sec. 7.1	Generally	79
Sec. 7.2	Procedure	79
Sec. 7.3	Special Use Permit Criteria	81
Sec. 7.4	Findings	81
Sec. 7.5	Additional Special Use Permit Criteria for Specific Uses	82
Article 8.	MOBILE HOMES.	96
Sec. 8.1	Permitted Location	96
Sec. 8.2	Permit Application for a Mobile Home on an Individual Lot of Record in an Agricultural District	96

Sec. 8.3	Special Necessity – Temporary Mobile Home Permit	97
Sec. 8.4	Non-Conforming Mobile Homes	98
Sec. 8.5	Permit Application for Mobile Home Park	98
Sec. 8.6	Mobile Home for Agricultural Worker Camps	105
Sec. 8.7	Health Department Approval	106
Article 9.	NONCONFORMING USES.	107
Sec. 9.1	Continuation of Existing Nonconforming Uses	107
Sec. 9.2	Abandonment or Discontinuance of Use	107
Sec. 9.3	Signs	107
Sec. 9.4	Changes in Nonconforming Use	107
Sec. 9.5	Restoration and Repair	107
Sec. 9.6	Maintenance	108
Article 10.	ADMINISTRATION, ENFORCEMENT, FINES AND VIOLATIONS.	109
Sec. 10.1	Purpose	109
Sec. 10.2	Powers and Duties of the Code Enforcement Officer	109
Sec. 10.3	Right to Inspect	110
Sec. 10.4	Technical Inspections	110
Sec. 10.5	Right to Restore	110
Sec. 10.6	Complaints	110
Sec. 10.7	Violations and Penalties	111
Article 11.	ZONING BOARD OF APPEALS.	112
Sec. 11.1	Organization	112

Sec. 11.2	Powers and Duties	112
Sec. 11.3	Procedure	114
Article 12.	PLANNING BOARD.	115
Sec. 12.1	Creation and Appointment.....	115
Sec. 12.2	Chairperson and Rules	115
Sec. 12.3	Powers and Authority of the Planning Board	115
Sec. 12.4	Site Plan Review	116

ARTICLE 1. TITLE AND PURPOSE.

Sec. 1.1 Title

This local law shall be known and cited as the "Town of Arcadia Zoning Law."

Sec. 1.2 Purpose

- a. Pursuant to the authority conferred by New York Municipal Home Rule Law, this local law is enacted in the interest and for the purpose of promoting the health, safety and general welfare of the community, and shall be deemed to specifically include, among others, the following purposes: the promotion of efficient and adequate public facilities and services; the assurance of adequate sites for residence, agriculture, industry and commerce; the provision of privacy for families; the prevention and reduction of traffic congestion, so as to promote efficient and safe circulation of vehicles and pedestrians; the assurance of adequate provision for transportation, water, sewerage, schools, parks and other public requirements and facilities; the protection of residential areas; the regulation of height and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards and other open spaces, and the density of population; the gradual elimination of nonconforming uses; the enhancement of the appearance of the Town of Arcadia as a whole; the protection of solar access and the accommodation of sunlight needed for solar energy systems; and the encouragement of flexibility in the design and development of land in such a way as to promote the most appropriate use of lands, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural and scenic qualities of open lands; for these and other purposes the location and use of land, buildings and other structures are hereby restricted and regulated as hereinafter provided.
- b. The zoning districts and regulations herein set forth, and as outlined on the Zoning Map, have been made in accordance with a comprehensive plan with reasonable consideration, among other things, as to the character of each district and its peculiar suitability for particular uses, the density of population, and with a view toward conserving the value of buildings and structures and encouraging the most appropriate use of land.
- c. This Local Law does not establish or set forth the requirements for the development of residential subdivisions, which are instead regulated by and subject to the provisions of the Land Subdivision Regulations of the Town of Arcadia, Wayne County, New York, which regulations shall remain in full force and effect, and which regulations are in addition to this Zoning Law.

ARTICLE 2. DEFINITIONS.

For the purpose of the Town of Arcadia Zoning Law, certain words and terms shall have the meaning set forth in this Article 2. Words in the present tense include the future, the singular number includes the plural and the plural the singular, unless explicitly defined otherwise. The word "Building" shall be read as synonymous with the word "structure." The word "occupied" includes the words "designed or intended to be occupied." The word "used" includes the words "arranged, designed or intended to be used."

Adult Entertainment Business and Use. See Article 6 of this Local Law.

Agricultural Activity. Generally consistent with the definitions in the Agriculture and Markets Law Article 25-AA, Section 301, the use of land for the production, preparation, marketing and transportation of grain, vegetable, fruit, and other crops, horticultural and floricultural products, animal husbandry, livestock and livestock products, as well as the buildings, structures, equipment, manure processing and handling facilities, and associated operations necessary to support such production activities and practices, including a commercial horse boarding operation.

Agriculture Related Enterprise. A retail or wholesale enterprise providing services or products principally utilized in agricultural production, including structures, agricultural equipment and agricultural equipment parts, batteries and tires, livestock, feed, seed, fertilizer and equipment repairs, or providing for wholesale or retail sale of grain, fruit, produce, trees, shrubs, flowers or other products of agricultural operations.

Agricultural Worker Camp. Property consisting of a trace of land and all structures thereon, including mobile homes, use, or occupied by persons employed as farm workers on a seasonal basis.

Area, Building. The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between the exterior faces of walls.

Automobile Sales Area. A premises including open areas, other than a street or way, and showrooms enclosed within a building used for the display or sale of new or used automobiles, trucks, motorcycles, snowmobiles, "cargo" trailers, boats and recreation vehicles.

Basement. A habitable space partly underground but having at least one-half of its floor-to-ceiling height above the average outside ground level.

Billboard. A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the lot on which such sign is situated. A bulletin.

Building, Accessory. A building which is clearly subordinate to the principal building on the lot, and which is used for purposes customarily incidental to those of the principal building. (See Sec. 5.3.)

Building, or Structure, Nonconforming. A building or structure lawfully existing prior to and at the time of the adoption of this Local Law which, because of its inherent nature of construction, does not conform to and with the provisions of this Local Law for the district in which it is located. (See also Use, Nonconforming.)

Building Line, Front. The line of that face of a principal building nearest the street line. In the case of a corner lot each building line facing a street line shall be considered a front building line.

Building, Principal. The building in which is conducted the main or principal use of the lot on which it is located.

Business: An enterprise, establishment or entity existing for the purposes of providing commodities, goods, products or services.

Camping Ground. A business where tracts of land are rented for short-term use of tents or camp or travel trailers and providing drinking water and sanitary facilities approved by the State Health Department.

Cellar. A space partly underground but having more than one half of its floor-to-ceiling height below the average outside ground level. An uninhabitable space unless designed as an underground dwelling.

Cemetery. Any facility for the disposal or burial of deceased human beings, by cremation or in a grave, mausoleum, vault or other receptacle.

Church or Place of Public Worship. A building for public worship and qualifying for property tax exemption by the State of New York.

Clinic, Medical or Dental. A structure designed for the practice of medicine or dentistry in which nonresident patients are treated.

Cluster Housing Development. A subdivision of single family dwellings occupying five (5) or more acres in which the minimum lot area and dimensions may be reduced provided the density of development is no greater than would be permitted in the district by conventional development and the residual land produced by the smaller lot size is used for common recreation and open space.

Community Residence. See Dwelling, Community Residence, below.

Conservation. The continuation of land in its natural state or any use that will maintain the land in essentially its natural state.

Coverage. That percentage of the lot covered by the Building Area.

Dependent Relative. A person who, by reason of economic or medical necessity; can be proved to be dependent on another person who is related by blood or marriage.

Drive-in Business. A drive-in business includes outdoor theaters, restaurants, refreshment stands, banks and the like where patrons generally do not enter a building but are served or entertained in their automobiles.

Dwelling. A house or other building designed or used for human habitation. The word "dwelling" shall not include tourist homes, motels, hotels or other structures designed for transient residence.

Dwelling, Single Family / Single Family Dwelling. A detached building containing one (1) dwelling unit only.

Dwelling, Two Family / Two Family Dwelling. A detached building containing two (2) dwelling units.

Dwelling, Multiple Family / Multiple Family Dwelling. A dwelling containing separate dwelling units for three (3) or more families. May include apartments, town houses, cooperative housing, condominiums and provide rental or sales housing.

Dwelling, Community Residence / Community Resident Dwelling. Any residential facility operated by the State or which is operated by a provider of services and which is designed to assist mentally disabled individuals in the transition from institutional to independent living in the community, to provide a long-term supervised residence to individuals whose mental disability is such that independent living is improbable, to provide a temporary shelter for short periods of time in order to offer an alternative for admission to an institution, to provide a brief-stay substitute home to mentally disabled individuals, or to allow a respite or vacation to such individual's family or legal guardian. A community residence shall include, but shall not be limited to, halfway houses and hostels.

Dwelling, Mobile Home / Mobile Home Dwelling. A dwelling designed to accommodate a single family in a single dwelling unit and having the following special characteristics:

- a. Manufactured as a relocatable dwelling unit for year-round occupancy and for installation on a mobile home stand or a foundation with or without a basement or cellar.
- b. Designed to be transported on its own chassis and connected to utilities after placement on a stand or foundation.
- c. Designed to be installed as a complete single-wide or doublewide unit with only incidental unpacking, expanding and assembling needed.

Dwelling, Row or Town House / Row or Town House Dwelling. A dwelling accommodating or designed to accommodate a single family in a single dwelling unit, the walls on one or two sides of which may be in common with the walls of adjoining dwellings and are party or lot line walls.

Dwelling Unit. One or more rooms located within a dwelling and providing, or designed to provide, complete year-round living accommodations for a single family, including cooking and bathroom facilities and an independent, but not necessarily an outside entrance.

Extractive Use. Any operation, other than in connection with foundations for a structure or highway construction, involving:

- a. A volume of earth movement exceeding the average of one (1) cubic foot per square foot of lot area, or 1,000 cubic yards, whichever is the lesser; or
- b. A change in ground elevation from previously existing grade exceeding ten (10) feet.
- c. See also Quarry, Sand Pit, Gravel Pit, Topsoil Stripping.

Family.

- a. (A) One (1), two (2) or three (3) persons occupying a dwelling unit, or (B) four (4) or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family.
- b. It shall be presumptive evidence that four (4) or more persons living in a single dwelling unit who are not related by blood, marriage or legal adoption do not constitute the functional equivalent of a traditional family.
- c. In determining whether individuals are living together as the functional equivalent of a traditional family, the following criteria must be present:
 1. The group is one which in theory, size, appearance, structure and function resembles a traditional family unit.
 2. The occupants must share the entire dwelling unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers may not be deemed to be occupied by the functional equivalent of a traditional family.
 3. The group shares expenses for food, rent or ownership costs, utilities and other household expenses.
 4. The group is permanent and stable. Evidence of such permanency and stability may include:

- i. The presence of minor dependent children regularly residing in the household who are enrolled in a local school.
 - ii. Members of the household having the same address for the purposes of voter registration, driver's licenses, motor vehicle registration and filing of taxes.
5. Members of the household are employed in the area.
6. The household has been living together as a unit for a year or more, whether in the current dwelling unit or other dwelling units.
7. Common ownership of the furniture and appliances among the members of the household.
8. The group is not transient or temporary in nature.

Family Care Facility. A residential facility which is occupied and operated by a family, as defined and certified by the Commissioner of Mental Hygiene according to Part 87, Codes, Rules and Regulations, to provide care for no more than ten (10) mentally disabled persons.

Farm. Any tract of land used for the production, preparation and marketing of grain, vegetable, fruit, and other crops, silviculture, horticultural and floricultural products, animal husbandry, livestock and livestock products, as well as the buildings and structures necessary to support such production activities and practices.

Farm Animal. This term shall include, but not be limited to, horses, cows, steers, bulls, goats, sheep, pigs, rabbits, fowls, llamas, and other similar animals, vermiculture and aquatic species.

Farm Equipment Junkyard. The storage or deposit, whether in connection with another business or not, of two or more items of farm equipment no longer intended or in condition for use in connection with the use or operation of a farm.

Funeral Home. A dwelling or other structure used and occupied by a professional licensed mortician for burial preparation, including cremation, and funeral services.

Garage, Private. A garage which is not conducted as a business, but which may be used for the storage of not more than one (1) vehicle used for commercial purposes.

Garage, Public. A garage conducted for business. The rental of storage space for more than two (2) vehicles not owned by persons residing on the premises shall be deemed a business use.

Garage, Service or Repair. An enclosed building for the indoor storage or repair of motor vehicles, including body work and painting and the sale of parts and accessories. A junkyard or auto salvage yard is not to be construed as a garage.

Gasoline Filling Station. Any area of land, including buildings or structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means.

Height. The vertical distance from finished grade to the highest point of the roof. On a hillside lot finished grade should be considered as the average finished grade on the uphill side of a building. Towers, steeples, cupolas, chimneys, water towers, and similar structures are exempt in height computation.

Home Occupation. A business use of a residential dwelling which is clearly subordinate to the residential use, and which is not detrimental to the residential character of the lot or of the surrounding neighborhood where said home occupation is located.

Hospital. Unless otherwise specified, the term hospital shall be deemed to include sanitarium, clinic, rest home, and any other place for the diagnosis, treatment or other medical care of human invalids, other than for mental patients, contagious or infectious diseases, or liquor or drug addicts.

Hospital, Animal or Veterinary Clinic. An establishment for temporary occupation by sick or injured animals for the purpose of medical diagnosis and treatment, and shall exclude the treatment or other care of humans.

Hostel. A Community Residence. (See Dwelling, Community Residence.)

Hotel. A building or group of buildings in which there are eight (8) or more rental sleeping rooms and which may also include dining rooms, kitchens, serving rooms, ballrooms and other facilities and service intended primarily for the accommodation of its patrons.

Junkyard. An area of land, with or without buildings, primarily used for the outside storage of used and discarded material including but not limited to wastepaper, rags, scrap metal, building materials, appliances, machinery, vehicles or parts thereof, with or without the dismantling, processing, salvage, sale or other use or disposition thereof. The deposit or storage of two (2) or more wrecked or broken motor vehicles, which would not qualify for inspection by the State of New York, or the major parts of two (2) or more such vehicles shall be deemed to make the lot a junkyard.

Kennel. Any building or structure used for business of the harboring, breeding or sale of more than four (4) dogs.

Lot. A parcel of land occupied or designed to be occupied by one (1) or more buildings and the accessory buildings or uses customarily incident thereto, including such open spaces as are required by this Local Law. Also known as a "plot".

Lot, Area. The space bounded by side and rear property lines and any existing street right-of-way lines. For purposes of this Local Law, lot area shall not be calculated from the street center line.

Lot, Corner. A lot fronting on two (2) roads at their intersection. (See also Yard Line.)

Lot Line, Front. In the case of a lot abutting on only one (1) street, the front lot line is the line separating such lot from such street (right-of-way). In the case of a lot that abuts more than one street, each street line shall be considered to be a front lot line. (See also Yard Line.)

Lot, Width. The distance between side lot lines measured along the theoretical front building line as determined by the front yard setback requirements of this Local Law.

Machine Shop. A facility where machining is done, using machine tools and cutting tools to make parts, usually of metal or plastic, but sometimes of other material such as glass or wood.

Manure Storage Facility. A facility constructed as an accessory use to an animal husbandry use, riding stable, or kennel, intended to collect, hold, process, store, treat, or distribute animal solid and liquid waste. Included within this definition are storage tanks, lagoons, seepage pits, drains, and collection systems intended to handle animal waste. Not included within this definition are systems designed and constructed to handle human waste.

Mobile Home. (See Dwelling, Mobile Home.)

Mobile Home Park. Any lot under one (1) ownership upon which accommodations are provided for two (2) or more mobile homes, whether for rent or for sale, and meeting the design standards set forth in Article 8 of this Local Law.

Motel or Motor Court. Motel or motor court shall mean a public inn containing not less than eight (8) rental units with provisions for, but not limited to automobile parking space to accommodate not less than one (1) car per unit, and separate toilet facilities and hot and cold running water for each rental unit.

Neighborhood Convenience Store. A small retail facility established and intended to accommodate the shopping needs of a limited area or neighborhood and providing basic commodities and personal services needed on a day-to-day basis.

New Construction. Construction on a parcel of land or portion thereof which has been cleared of previous construction or upon which no construction has previously occurred. An addition to an existing structure whether attached or detached, shall be considered to be new construction. The restoration or remodeling of an existing structure shall not be considered to be new construction.

Nonconforming Use or Building. A building, structure, or use of land existing at the time of enactment of this Local Law, or an amendment thereto, and which does not conform to the regulations of the district in which it is situated.

Nonprofit Organization. A nonprofit corporation or association organized or conducted exclusively for religious, charitable, hospital, educational, moral or mental improvement of men, women or children or for cemetery purposes.

Nursery School. A school designed to provide daytime care or instruction for two (2) or more children up to six (6) years of age inclusive, and operated on a regular basis, whether or not for profit.

Nursing or Convalescent Home. Any licensed establishment where persons are housed or lodged and furnished with meals and nursing and/or custodial care for hire.

Office. A place of business where commercial or professional services are provided.

Open Space. That part of the lot that is undeveloped and intended to remain as an aesthetic, natural or recreational resource, such that it is not used for buildings, parking or service. Open space may comprise lawns, trees, shrubbery, garden areas, footpaths, play areas, water courses and wooded areas.

Parking Space. An off-street paved or surfaced space which is accessible, available and intended for the parking of one (1) motor vehicle. (See requirements in Sec. 5.5.)

Pond. Any artificially constructed body of water other than a swimming pool that is greater than two (2) feet in depth.

Quarry, Sand Pit, Gravel Pit, Topsoil Stripping. A lot or part thereof used for the purpose of extracting stone, sand, gravel or other aggregate or topsoil for sale, as an industrial or commercial operation, and exclusive of the process of grading preparatory to the construction of a building for which a building permit has been issued, or highway construction.

Recreation Area. An area to be used for strictly recreational purposes such as camping grounds, rod and gun club, private athletic fields, field house, etc.

Residential. A use which comprises the primary/permanent residence and/or living quarters for a person or persons.

Restaurant. A building or structure used or intended or designed to be used for the sale and on-premises consumption of food and beverages, including alcoholic beverages. The term restaurant shall include bars and taverns, and all establishments licensed to sell alcoholic beverages for on-premises consumption.

Retail Store. A retail facility established to provide a more specialized shopping need or a broader range of commodities or personal services, and drawing support from several neighborhoods, the Town, or the larger surrounding region.

Roadside Stand. A stall, booth or other similar structure for business which shall be limited to the sale of certain farm products.

Rooming House. A dwelling where rooms are offered for hire for at least two (2) but no more than eight (8) people, with or without meals. Sometimes termed a boarding house or lodging house.

School. Includes parochial, private and public schools, nursery schools, day nursery, colleges, universities and schools accredited by the state; but shall exclude commercially operated schools of beauty culture, dancing, driving, music and similar establishments.

Shopping Center. A group of stores, shops and similar establishments occupying adjoining structures (for purposes of this Zoning Law, all of which may be deemed one (1) building), designed as an architectural unit and providing adequate space for parking and loading.

Sign. Any material, structure, or part thereof, or any device attached to a structure or painted or represented thereon, composed of or upon which is placed numbered, lettered, graphical, pictorial, or other matter for visual communication or display, when used or located out-of-doors or on the exterior of any building or indoors as a window sign, to display an advertisement, notice, directional matter, name, or if otherwise utilized to direct or draw attention to a business use. The term "Sign" does not include signs erected and maintained pursuant to and in discharge of any governmental function within this political jurisdiction, or required by any law, ordinance, or governmental regulation, or the flag or insignia of any nation or of any governmental agency having jurisdiction over the Town of Arcadia.

Solar Access. Space open to the sun and clear of overhangs or shade.

Solar Energy System. Equipment that directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy.

Solar Energy System, Non-Rooftop Residential. Any Solar Energy System which is not a Rooftop Residential Solar Energy System.

Solar Energy System, Rooftop Residential. A Solar Energy System servicing a One or Two Family Dwelling, designed and used primarily to provide energy only to the subject Dwelling, where the solar panels are wholly contained on the rooftop of the Dwelling.

Special Use or Special Use Permit. A use which, because of its unique characteristics, requires a Special Use Permit which will be considered and may be authorized by the Town Board in accordance with Article 7 of this Local Law.

Stable, Public. A building and ancillary facilities such as paddocks, indoor and outdoor riding rinks, and pastures that provide care, housing, training, and health-related services to horses kept on the premises or on other properties owned or leased by the stable operator, including horses boarded on the premises by others, and which may include activities such as the sale of horses to the general public, the hiring of horses and horse drawn vehicles to the general public, and a riding academy providing lessons in horseback riding and other equestrian skills or sports.

Storage, Open. Land used for the keeping of goods, wares or supplies on land outside of any building or structure. This, however, shall not be construed to include the activities of a Junkyard as defined herein.

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

Swimming Pool. Includes any body of water or receptacle for water having a depth at any point greater than two (2) feet and designed, used, or intended to be used for swimming or bathing, and constructed, installed, or maintained in or above the ground outside or inside any building. For the purposes of this Local Law a swimming pool as defined herein shall be considered a structure.

Tourist Home. A dwelling in which overnight accommodations are provided or offered for transient guests for compensation.

Trailer, Boat, or Cargo. A vehicle designed exclusively for the transportation of one (1) boat or the hauling of cargo.

Trailer, Camp, or Travel. A vehicle or portable structure equipped, but not regularly used for sleeping, but which may or may not have sanitary facilities. A recreation vehicle.

Use, Customary Accessory. Also known as "Accessory Use." A use which is clearly subordinate to the principal permitted use, and which serves a purpose that customarily incidental to such principally permitted use.

Use, Principal. The primary or principal purpose for which land or a building is designed, arranged, or intended to be used, 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.

Variance. Written authority to deviate from any of the regulations of this Local Law, including land use, said authority to be authorized by the Town Board and granted by the Zoning Board of Appeals in accordance with Sec. 11 of this Local Law.

Water Body. Any natural or artificial pond, lake, reservoir, or other area which ordinarily or intermittently contains water and which has a discernible shoreline, but not including a watercourse as defined herein or a man-made swimming pool not associated with a wetland or watercourse.

Watercourse. A running stream of water; a natural stream fed from permanent or natural sources, including rivers, creeks, springs, runs, and rivulets; a stream, usually flowing in a particular direction, though it need not flow continuously (it may sometimes be dry). To meet this definition, it must flow in a definite channel, having a bed or banks. It usually discharges itself into some other stream or body of water. It must be something more than mere surface

drainage over the entire face of the tract of land, occasioned by unusual freshets or other extraordinary causes.

Yard, Front. An open area extending across the entire width of the lot between the front yard line and the front lot line (street or road right-of-way line). A corner yard shall provide a front yard abutting each road and shall have two (2) side yards of minimum dimension and no rear yard.

Yard Line. A line on a lot which is parallel to the lot line along which a required yard extends and which delineates the required minimum yard width or depth (setbacks) as set forth in Article 4 of this Local Law.

Yard, Rear. An open area on the same lot with the building or structure between the rear yard line and the rear lot line and extending the full width of the lot.

Yard, Side. An open area on the same lot with the building or structure situated between the side yard line and the side lot line and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side lot line.

ARTICLE 3. ZONING DISTRICTS, GENERALLY.

Sec. 3.1 Establishment of Districts

- a. The Town is hereby divided into the following zoning districts:
 - “A” Agricultural District
 - “R” Residential District
 - “GB” General Business District
 - “T” Industrial District
- b. In addition to the traditional zoning districts, the following Environmental Protection Overlay Districts (EPODs) are hereby established, which may be mapped at any time hereafter. The regulations for the overlay districts shall apply in addition to those of the underlying district for all land and uses located within the boundaries of any overlay district. If the regulations for the overlay and underlying district are in conflict, the more restrictive provisions will apply.

Sec. 3.2 Zoning Map

All land within the Town of Arcadia shall fall within one or more of the zoning districts. The boundaries of said districts are hereby established as shown on the “Zoning Map of the Town of Arcadia”, as most recently approved by the Town Board, with all explanatory matter thereon and amendments thereto, which map is hereby adopted and made a part of this Local Law. A copy of said map, indicating the latest amendments thereto shall be kept up to date and filed in the Town Clerk’s office for the use and benefit of the public.

Sec. 3.3 District Boundaries

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

- a. The district boundaries are lot lines unless otherwise shown, and where the designation of the Zoning Map indicates a boundary approximately upon a lot line, such lot line shall be construed to be the boundary.
- b. Distances shown on the Zoning Map are perpendicular distances from the street lines measured back to the zone boundary line, which lines in all cases where distances are given are parallel to the street line.
- c. In other cases, the boundary line shall be determined by use of the scale of the Zoning Map.
- d. In case of uncertainty as to the true location of a zoning district boundary line in a particular instance, the Code Enforcement Officer shall request the Zoning Board of Appeals to render a determination with respect thereto.

Sec 3.4 Planned Development District

- a. The purpose of a Planned Development District ("PD") district is to provide a means of developing those land areas within the community considered appropriate for new residential, recreational, commercial, or industrial use, or a satisfactory combination of these uses in an economic and compatible manner while encouraging the utilization of innovative planning and design concepts in the areas without departing from the spirit and intent of these zoning regulations.
- b. PD Districts are custom zoning districts created for a proposed project ("planned") which comprises a compatible mix of uses that may not necessarily fit within traditional zoning districts. The classification "planned district" is intended to designate an area of land for development in one or more of the following categories:
 1. Planned residential.
 2. Planned commercial.
 3. Planned light industrial.
 4. Planned recreational.
- c. General Guidelines.
 1. Establishment of a Planned Development District project shall require two steps: (A) the creation of the PD District Regulations for the project proposed and the corresponding amendment of the Zoning District Map to establish a planned district; and (B) approval of a project in a planned district.
 2. There shall be no minimum acreage requirement, provided that the overall intent and purposes of this section are complied with.
- d. Procedure to Create PD.
 1. Creation of PD Regulations and Amendment to Zoning Map for the Planned Development District (PD).
 - i. Application for creation of regulations and amendment of the Zoning Map for a planned district shall be made to the Town Board, which shall refer the application to the Planning Board.
 - ii. The applicant shall submit a preliminary development plan, at an appropriate scale, illustrating the type, uses, and design of the proposed development, including any or all of the following as required by the Planning Board:
 - (a) Boundaries of the proposed district.

- (b) Topography, soil conditions, and drainage.
 - (c) Land uses and building locations.
 - (d) Roads, parking, and walks.
 - (e) Open space areas.
 - (f) Landscaping and screening.
 - (g) Other dimensional and bulk requirements proposed.
- iii. The Planning Board shall review such application and may require such changes in the preliminary plans as are necessary to meet the requirements of this section, to protect the established permitted uses in the vicinity, and to promote the orderly growth and sound development of the community. In evaluating the proposal and in reaching its decision regarding the preliminary plans, the Planning Board shall consider and make findings regarding the considerations set forth below:
- (a) The need for the proposed development.
 - (b) In what respects the plan is or is not consistent with the stated purposes of a Planned Development District.
 - (c) The extent to which the plan departs from the zoning regulations formerly applicable to the property in question (including bulk, density and permitted uses).
 - (d) The existing character of the neighborhood and the relationship, beneficial or adverse, of the proposed development to this neighborhood.
 - (e) The location of principal and accessory buildings on the site in relation to one another and to other structures and uses in the vicinity, including bulk and height.
 - (f) The provision for pedestrian circulation and open space in the planned development.
 - (g) The traffic circulation features within the site, including the amount of, location of, and access to automobile parking and terminal loading areas.

- (h) The amount of traffic generated at peak hours and the provisions for adequately handling such volumes, with particular reference to points of ingress and egress, potential hazards, such as inadequate sight distances and intersection design, and the nature and suitability of the connecting street or highway system to absorb the anticipated changes.
 - (i) The provision for storm, sanitary and solid waste disposal, and other utilities on the property adjacent to the site as well as that site itself.
 - (j) The proposed landscaping and signage.
 - (k) The manner in which the physical design makes adequate provision for service demands (water, sewer, fire, etc.), adequate traffic control, and the amenities of light, air, and visual enjoyment.
- iv. All applications for creation of a planned district shall be referred to the Wayne County Planning Board, which may review and comment on the referral within thirty (30) days.
- v. The Planning Board shall report its findings and render its recommendation on rezoning to create the PD to the Town Board within sixty-two (62) days of submission of a complete application. It may recommend approval, disapproval, or conditional approval subject to modifications regarding the proposed development.
- vi. The Town Board shall consider the report and recommendations of the Planning Board, address SEQR requirements and all other comments, reviews, and statements pertaining thereto.
- vii. If it chooses to proceed, the Town Board will develop PD zoning regulations for the proposed application and hold a public hearing. The Town Board may require the applicant to develop its proposed PD regulations for review and revision by the Town Board.
- viii. The Town Board may then create a PD Zoning District and amend the Zoning Map to establish and define the type and boundaries of the Planned Development District and, in doing so, may state specific conditions in addition to those provided by the regulations.
- ix. The applicant will be responsible for reimbursing the Town in connection with all costs incurred by the Town in reviewing the

PD application and developing zoning regulations, including, but not limited to, engineering and legal consulting costs.

- x. The approval of a PD application and creation of a PD District involves the creation of a zoning district (the PD District) and rezoning of the Zoning Map. These are legislative actions within the sole jurisdiction of the Town Board, which are subject solely to the ultimate legislative discretion of the Town Board.

2. Site Plan Approval in a Planned Development District.

- i. After approval of the PD by the Town Board, the applicant shall submit to the Planning Board the preliminary development plan submitted to the Town Board, the approved PD regulations, and a Site Plan application for the proposal.
- ii. The Planning Board shall conduct Site Plan review pursuant to this Zoning Law and the approved PD regulations. No Site Plan approval shall be issued until the Planning Board has evaluated the project based on the following considerations:

Consistency with the preliminary development plan, including:

- (a) The existing character of the neighborhood and the relationship, beneficial or adverse, of the proposed development to this neighborhood.
- (b) The location of principal and accessory buildings on the site in relation to one another and to other structures and uses in the vicinity, including bulk and height.
- (c) The provision for pedestrian circulation and open space in the planned development.
- (d) The traffic circulation features within the site, including the amount of, location of, and access to automobile parking and terminal loading areas.
- (e) The amount of traffic generated at peak hours and the provisions for adequately handling such volumes, with particular reference to points of ingress and egress, potential hazards, such as inadequate sight distances and intersection design, and the nature and suitability of the connecting street or highway system to absorb the anticipated changes.

- (f) The provision for storm, sanitary and solid waste disposal, and other utilities on the property adjacent to the site.
 - (g) The proposed landscaping and signage.
 - (h) The manner in which the physical design makes adequate provision for service demands (water, sewer, fire, etc.), adequate traffic control, and the amenities of light, air, and visual enjoyment.
- iii. All conditions imposed by the Town Board in establishing the planned district, and in the approval of plans and all subsequent conditions imposed by the Planning Board or Town Board in reviewing the final Site Plans, shall run with the land and shall not lapse or be waived because of ownership or tenancy change in any or all of the designated district.
- iv. The Town Board shall have the authority to again amend the map to restore the district to its original zoning designation or any other designation if Site Plan approval is not granted within two (2) years. The Town Board may extend the two-year period.
- v. If a building permit for the development in accordance with the approved Site Plans and specifications has not been within one (1) year after the date of the resolution authorizing Site Plan approval, Site Plan approval shall become null and void and the approval shall be revoked and vacated.

ARTICLE 4. ZONING DISTRICT REGULATIONS.

Sec. 4.1 Schedules of Regulations

Restrictions and controls for permitted land uses or activities or uses or activities requiring Special Use Permit or having special requirements applied thereto, are set forth in this Article, as well as in Article 7. Additionally, area and coverage requirements for each zoning district are set forth in this Article, as well as in Article 6. Where there is a conflict between said Articles and the narratives in this Article, said conflict shall be resolved in favor of the narratives in this Article.

Sec. 4.2 Application of Regulations

Except as hereinafter otherwise provided:

- a. No building shall be erected and no existing building shall be moved, altered, added to, or enlarged, nor shall any land or building be designed, used, or intended to be used for any purpose, or in any manner other than as permitted in the zoning district in which such building or land is located.
- b. Any land use activity not specifically allowed by the provisions of this Local Law is specifically prohibited.
- c. No building shall be erected, reconstructed, or structurally altered to exceed in height the limit hereinafter designated for the district in which such building is located.
- d. No building shall be erected, nor existing buildings be altered, enlarged, or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity to the yard, lot area, and building location regulations hereinafter designated for the district in which such building or open space is located.
- e. No yard or other open space provided around any building for the purpose of complying with the provisions of this Local Law shall be considered as providing a yard or open space for any other building, and no yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot.
- f. No lot shall be formed from part of a lot already occupied by a building unless such building, including all yards and open spaces connected therewith, and the remaining lot comply with all requirements prescribed by this Local Law for the district in which said lot is located. No permit shall be issued for the erection of a building on any new lot thus created unless such building and lot comply with all of the provisions of this Local Law.

- g. Unless otherwise authorized, no more than one (1) principal use shall be permitted per lot.

Sec. 4.3 Residential ("R") District Regulations

- a. Purpose. The purpose of the Residential "R" District is primarily to permit One and Two Family Dwellings for residents of the Town of Arcadia. The District is to be so situated and organized as to create residential neighborhoods.
- b. Permitted Uses. Permitted uses in the Residential "R" District shall be as follows, subject to any and all applicable provisions and requirements set forth in this Code:
 - 1. Agricultural Activity, subject to detailed additional requirements set forth at Article 6 of this Zoning Law.
 - 2. Customary Accessory Uses, subject to detailed additional requirements at Article 6 of this Zoning Law.
 - 3. Dwelling - One Family
 - 4. Dwelling - Two Family.
 - 5. Farm, subject to detailed additional requirements set forth at Article 6 of this Zoning Law.
 - 6. Home Occupation, subject to detailed additional requirements set forth at Article 6 of this Zoning Law.
 - 7. Garage, private
 - 8. Municipal Structure or Facility.
 - 9. Outdoor Storage of one of each: Boat, Boat Trailer, Cargo Trailer, and/or Camp Trailer, where such item(s) is owned for personal use by a person residing on the subject property, subject to detailed additional requirements set forth at Article 6 of this Zoning Law.
 - 10. Public Park or Playground.
 - 11. Roadside Stand, subject to obtaining a Certificate of Compliance pursuant to Article 6 of this Zoning Law.
 - 12. Signs, subject to detailed additional requirements at Article 5 of this Zoning Law.

13. Solar Energy Systems, Rooftop Residential, subject to additional requirements at Article 6 of this Zoning Law.
 14. Swimming Pool.
- c. Specially Permitted Uses. The following uses shall be permitted, but only upon the issuance of a Special Use Permit by the Town Board as set forth in Article 7 of this Zoning Law, and subject to any and all applicable provisions and requirements set forth in this Code:
1. Business or Professional Office.
 2. Church, Covenant, or Parish House.
 3. Cluster Housing.
 4. Dwelling- Multifamily.
 5. Dwelling - Row or Town house.
 6. Family Care Facility.
 7. Hostel or Community Residence.
 8. Institution for Higher Learning.
 9. Neighborhood Retail or Convenience Store.
 10. Nursery School or Commercial Day Care Center.
 11. Nursing or Convalescent Home.
 12. Pond.
 13. Public or Private School.
 14. Public Utility Structure or Facility.
 15. Tourist Home.
 16. Wind Energy System (Noncommercial).
- d. Lot, Area, Dimensional, and Bulk Requirements.
1. Minimum Lot Size Requirements:

- i. Single Family Dwellings: one (1) acre. The minimum width of the lot shall be 150 feet.
 - ii. Two Family Dwellings: one (1) acre. The minimum width of the lot shall be 150 feet.
 - iii. Dwellings with greater than two dwelling units: Area of one (1) acre plus an additional 5,000 square feet for each additional dwelling unit over two. The minimum width shall be 150 feet plus an additional twenty (20) feet for each additional dwelling over two.
 - iv. All other uses not within "i," "ii" or "iii" above: Area = one (1) acre. The minimum width of the lot shall be 150 feet.
2. Maximum Lot Coverage: the coverage of a lot shall not exceed 30%.
 3. Maximum Height: Structures shall not exceed a height of forty (40) feet.
 4. Lot Setback Requirements:
 - i. Front Yard: sixty (60) feet.
 - ii. Rear Yard: twenty-five (25) feet.
 - iii. Side Yard: twenty-five (25) feet.

Sec. 4.4 General Business ("GB") District Regulations

- a. Purpose. The purpose of the General Business "GB" District is primarily to permit the operation of business uses.
- b. Permitted Uses. Permitted uses in the General Business "GB" District shall be as follows, subject to any and all applicable provisions and requirements set forth in this Code:
 1. Agricultural Activity, subject to detailed additional requirements at Article 6 of this Local Law.
 2. Automobile and Heavy Equipment Sales.
 3. Bank or Monetary Institution.
 4. Bowling Alley, Skating Rink, or other indoor places of amusement or assembly.

5. Building Materials Storage and Lumberyard.
6. Business or Professional Office.
7. Church, Covenant, or Parish House.
8. Commercial Printing.
9. Customary Accessory Uses, subject to detailed additional requirements at Article 6 of this Zoning Law.
10. Drive-in Business.
11. Farm.
12. Home Occupation, subject to detailed additional requirements set forth at Article 6 of this Zoning Law.
13. Hotel or Motel.
14. Light Manufacturing or processing of goods, subject to detailed additional requirements set forth at Article 6 of this Zoning Law.
15. Machine Shop, subject to detailed additional requirements set forth at Article 6 of this Zoning Law.
16. Mortuary.
17. Municipal Structure or Facility.
18. Neighborhood Retail or Convenience Store.
19. Nursery School/Commercial Day Care Center.
20. Outdoor Storage of one of each: Boat, Boat Trailer, Cargo Trailer, and/or Camp Trailer, where such item(s) is owned for personal use by a person residing on the subject property, subject to detailed additional requirements set forth at Article 6 of this Zoning Law.
21. Public Park or Playground.
22. Radio, T.V., and similar Communication Towers and Facilities, including Telecommunication Facilities
23. Restaurant or other place for serving food and beverage.

24. Retail Store.
 25. Roadside Stand, subject to obtaining a Certificate of Compliance pursuant to Article 6 of this Zoning Law.
 26. Signs, subject to detailed additional requirements at Article 5 of this Zoning Law.
 27. Solar Energy System, Rooftop Residential, subject to detailed additional requirements at Article 6 of this Zoning Law.
 28. Swimming Pool.
 29. Theater.
 30. Veterinary or Animal Hospital.
 31. Woodworking Shop.
- c. Specially Permitted Uses. The following uses shall be permitted, but only upon the issuance of a Special Use Permit by the Town Board as set forth in Article 7 of this Zoning Law, and subject to any and all applicable provisions and requirements set forth in this Code:
- d.
1. Dwelling – Single Family.
 2. Dwelling - Two Family.
 3. Garage, private.
 4. Garage, Store, Repair, Paint or adjustment of vehicles; Sales of parts and accessories.
 5. Gasoline or other Fuel Sales Station.
 6. Hospital, Medical Clinic.
 7. Institution for Higher Learning.
 8. Other Commercial Use.
 9. Public or Private School.
 10. Public Utility Structure or Facility.

11. Recreation development area, field house, private athletic field
12. Rooming House.
13. Shopping Center.
14. Solar Energy System, Non-Rooftop Residential.
15. Tourist Home.
16. Wind Energy System.

e. Lot, Area, Dimensional, and Bulk Requirements.

1. Minimum Lot Size Requirements:
 - i. Single Family Dwellings: Area of one (1) acre. The minimum width of the lot shall be 150 feet.
 - ii. Two Family Dwellings: Area of one (1) acre. The minimum width of the lot shall be 150 feet.
 - iii. All other uses not within “i” or “ii” are not subject to minimum lot size requirements.
2. Maximum Lot Coverage: the coverage of a lot shall not exceed 50%.
3. Maximum Height: Structures shall not exceed a height of forty (40) feet.
4. Lot Setback Requirements:
 - i. Front Yard: seventy-five (75) feet.
 - ii. Rear Yard: twenty-five (25) feet.
 - iii. Side Yard: fifteen (15) feet.

Sec. 4.5 Agricultural (“A”) District Regulations

- a. Purpose. The purpose of the Agricultural “A” District is to provide for a broad range of agricultural uses and activities, while still providing for a variety of other uses as well.
- b. Permitted Uses. Permitted uses in the Agricultural “A” District shall be as follows, subject to any and all applicable provisions and requirements set forth in this Code:

1. Agricultural Activity.
2. Customary Accessory Uses, subject to detailed additional requirements at Article 6 of this Zoning Law.
3. Dwelling - Single family
4. Dwelling - Two family
5. Farm.
6. Garage, Private.
7. Home Occupation, subject to detailed additional requirements set forth at Article 6 of this Zoning Law.
8. Institution for Higher Learning.
9. Mobile Home Dwelling, subject to detailed additional requirements set forth at Article 6 of this Zoning Law.
10. Municipal Structure or Facility.
11. Nursing or Convalescent Home.
12. Outdoor Storage of one of each: Boat, Boat Trailer, Cargo Trailer, and/or Camp Trailer, where such item(s) is owned for personal use by a person residing on the subject property, subject to detailed additional requirements at Article 6 of this Zoning Law.
13. Public Park or Playground.
14. Public or Private School.
15. Public Stable and Riding Academy, subject to detailed additional requirements set forth at Article 6 of this Zoning Law.
16. Roadside Stand, subject to obtaining a Certificate of Compliance pursuant to Article 6 of this Zoning Law.
17. Signs, subject to detailed additional requirements at Article 5 of this Zoning Law.
18. Solar Energy System, Rooftop Residential, subject to detailed additional requirements at Article 6 of this Local Law.

19. Swimming Pool.

- c. Specialty Permitted Uses. The following uses shall be permitted, but only upon the issuance of a Special Use Permit by the Town Board as set forth in Article 7 of this Zoning Law, subject to any and all applicable provisions and requirements set forth in this Code:

1. Agricultural Related Enterprises.
2. Agricultural Worker Camp.
3. Automobile and Heavy Equipment Sales.
4. Bank or Monetary Institution.
5. Billboard.
6. Bowling Alley, Skating Rink, or other indoor places of amusement or assembly.
7. Building Materials Storage and Lumberyard.
8. Business or Professional Office.
9. Camping Grounds.
10. Cemetery.
11. Church, Covenant, or Parish House.
12. Cluster Housing.
13. Drive-in Business.
14. Dwelling- Row or Town House
15. Extractive Use.
16. Family Care Facility.
17. Farm Equipment Junkyard.
18. Garage or Storage, Repair, Paint, or Adjustment of vehicles; Sale of parts and accessories of vehicles.
19. Gasoline or other Fuel Sales.

20. Golf Course.
21. Hospital; Medical Clinic.
22. Hostel or Community Residence.
23. Hotel or Motel.
24. Kennel.
25. Machine Shop, and must also comply with detailed additional requirements at Article 6 of this Zoning Law.
26. Mobile Home Park.
27. Mortuary or Funeral Home.
28. Multiple Family Dwelling.
29. Neighborhood Retail or Convenience Store.
30. Nursery School or Commercial Day Care Center.
31. Pond, subject to additional requirements at Article 6 of this Zoning Law
32. Public Utility Structure or Facility.
33. Radio, T.V., and similar Communication Towers and Facilities, including Telecommunication Facilities.
34. Recreation Development Area, Field House, Private Athletic Field.
35. Restaurant or other place for serving food and beverage.
36. Retail Store.
37. Rod and Gun Club, Game Preserve, and similar use.
38. Rooming House.
39. Solar Energy System, Non-Rooftop Residential, subject to additional requirements at Article 6.
40. Storage, Baling, or Treatment of Junk, Rags, Bottles, or Scrap Paper, subject to additional requirements at Article 6.

41. Theater.
42. Tourist Home.
43. Veterinary or Animal Hospital.
44. Warehousing.
45. Wind Energy System (both Commercial and Noncommercial).
46. Woodworking Shop.

d. Lot, Area, Dimensional, and Bulk Requirements.

1. Minimum Lot Size Requirements:
 - i. Single Family Dwellings: Area of two (2) acres. The minimum width of the lot shall be 250 feet.
 - ii. Two Family Dwellings: Area of two (2) acres. The minimum width of the lot shall be 250 feet.
 - iii. Dwellings with greater than two (2) dwelling units: Area of two (2) acres plus an additional 5,000 square feet for each additional dwelling unit over two. The minimum width shall be 250 feet plus an additional 20 feet for each additional dwelling over two.
 - iv. All other uses not within "i", "ii", or "iii" above: Area of two (2) acres. The minimum width of the lot shall be 250 feet.
2. Maximum Lot Coverage: the coverage of a lot shall not exceed 30%.
3. Maximum Height: Structures shall not exceed a height of forty (40) feet.
4. Lot Setback Requirements:
 - i. Front Yard: sixty (60) feet.
 - ii. Rear Yard: twenty-five (25) feet.
 - iii. Side Yard: twenty-five (25) feet.

Sec. 4.6 Industrial ("I") District Regulations

- a. Purpose. The purpose of the Industrial "I" District is primarily to permit Industrial uses.
- b. Permitted Uses. Permitted uses in the Industrial "I" District shall be as follows, subject to any and all additional provisions and requirements set forth in this Code::
 - 1. Adult Entertainment and Uses, subject to detailed additional requirements at Article 6 of this Zoning Law.
 - 2. Agricultural Activity.
 - 3. Automobile and Heavy Equipment Sales.
 - 4. Building Materials Storage and Lumberyard.
 - 5. Business or Professional Office
 - 6. Carting, Express, Hauling, or Storage Yard.
 - 7. Cleaning and Dying Plant.
 - 8. Commercial Printing.
 - 9. Customary Accessory Uses, subject to detailed additional requirements at Article 6 of this Zoning Law.
 - 10. Farm.
 - 11. Garage or Storage, Repair, Paint, or Adjustment of vehicles; Sale of parts and accessories.
 - 12. Gasoline or other Fuel Sales Station.
 - 13. Light Manufacturing or processing of goods, subject to detailed additional requirements set forth at Article 6 of this Zoning Law.
 - 14. Machine Shop, subject to detailed additional requirements set forth at Article 6 of this Zoning Law.
 - 15. Municipal Structure or Facility.
 - 16. Roadside Stand, further subject to obtaining a Certificate of Compliance pursuant to Article 6 of this Zoning Law.

17. Signs, subject to additional requirements at Article 5 of this Zoning Law.
 18. Storage, Baling, or Treatment of Junk, Rags, Bottles, or Scrap Paper, subject to detailed additional requirements at Article 6.
 19. Storage or Processing of Scrap Metal, Auto Graveyard, Store of Secondhand Building Material, subject to detailed additional requirements at Article 6.
 20. Warehousing.
 21. Woodworking Shop.
- c. Specially Permitted Uses. The following uses shall be permitted, but only upon the issuance of a Special Use Permit by the Town Board as set forth in Article 7 of this Zoning Law (unless otherwise specified below), and subject to any and all additional provisions and requirements set forth in this Code:
1. Dwelling - Single Family
 2. Extractive Use, including Mining
 3. Farm Equipment Junkyard.
 4. Garage, Private
 5. Junkyard.
 6. Other Commercial Use.
 7. Public Utility Structure or Facility.
 8. Radio, T.V., and similar Communication Towers and Facilities, including Telecommunication Facilities.
 9. Solar Energy System, Non-Rooftop Residential.
 10. Wind Energy System (both Commercial and Noncommercial).
- d. Lot, Area, Dimensional, and Bulk Requirements.
1. Maximum Lot Coverage: the coverage of a lot shall not exceed 50%.
 2. Maximum Height: Structures shall not exceed a height of fifty (50) feet.

3. Lot Setback Requirements:
 - i. Front Yard: one hundred (100) feet.
 - ii. Rear Yard: fifty (50) feet.
 - iii. Side Yard: twenty-five (25) feet.

Sec. 4.7 Floodplains

- a. Purpose. The purpose of these floodplain regulations is to protect the health, safety, and general welfare of the inhabitants of the Town of Arcadia from hazards resulting from the periodic flooding of certain areas, and preventing the encroachment of development and other constructions on such areas, thereby helping to preserve adequate flood flow capacity.
- b. Floodplain Areas. Those areas designated as flood hazard areas on the Federal Flood Insurance Rate Maps or Floodway maps, or areas determined to be subject to flooding as based on property elevation or determined by data developed by the Army Corps of Engineers, the United States Geological Survey, the Federal Emergency Management Agency (FEMA), or the Town of Arcadia. This section does not imply that areas outside the designated floodplain areas will be free from flooding or flood damages.
- c. Conflict with Other Provisions. The provisions regulating use of, and development on, floodplain areas shall take precedence over the provisions of any other article or section of this Zoning Local Law, or other regulation or Local Law in the Town of Arcadia, to the extent that floodplain provisions are inconsistent with such other provisions.
- d. Requirements Applicable to Floodplain Areas:
 1. No structure or facility shall be erected or placed which could impede or change the direction of the flow of water in the flood area, or which could collect or catch floating debris, or be placed in such a way that the natural force of floodwater could carry dislodged material downstream to damage public and private property and improvements.
 2. Any structure or facility shall be constructed 2 feet above floodplain level and placed so as to offer the minimum opportunity for scour or erosion of soil surface and shall be designed to have minimum effect on the natural flow and height of floodwater.
 3. Structures and facilities shall be firmly anchored and interconnected to prevent disjointing and to prevent them from floating downstream where they could become a threat to life and property.

4. Service facilities such as electrical and heating equipment shall be constructed at or above the flood protection elevation or shall be floodproofed.
5. Floodproofing measures may be required by the Town Board for all buildings and structures other than those with a low flood damage potential.

ARTICLE 5. MISCELLANEOUS REGULATIONS AND REQUIREMENTS

Sec. 5.1 Additional Yard and Area Regulations

- a. Yards on Corner Lots. Any yard adjoining a road shall be considered a front yard and shall meet the minimum front yard requirements of Article 4. (See also Definitions, Article 2.)
- b. Front Yard Exceptions. Where front yards in any district have been established for more than 50% of the frontage in any block at a depth greater than the minimum required for the District, the depth of required front yards shall be increased to comply with such established depth. In no case shall the depth of the required front yard be less than that specified for the District in which it is located.
- c. Projections in Yards. Every part of a required yard shall be open and unobstructed, except for the ordinary projections of sills, belt cornices, pilasters, leaders, chimneys, eaves, and ornamental features, provided that no such projections extend more than three (3) feet into any required yard.
- d. Open or enclosed fire escapes, outside stairways and balconies, and solar energy systems projecting into a required yard not more than four and one half (4½) feet may be permitted by the Code Enforcement Officer where such projections are so placed as not to obstruct light and ventilation.
- e. Open Porches and Attached Carports and Garages. In determining the percentage of building coverage of a lot or the size of yards for the purpose of this Local Law, porches or carports open at the sides but roofed, and all attached garages, shall be considered as a part of the principal building.
- f. Permitted Exceptions. The provisions of this subsection shall not apply to fences, hedges, or walls less than six (6) feet in height above the natural grade, except as may be controlled by Sec. 5.1.d above, nor to terraces, unroofed porches, or similar features which are less than three (3) feet above the level of the floor of the ground story.
- g. Corner Lot Site Lines. At all street intersections, no obstruction to vision shall be erected on any lot within the clear sight triangle formed by the street lot lines of such lot and a line drawn between the points along such street lot lines, as specified in the New York State Highway Design Manual.

Sec. 5.2 Permitted Exceptions to Height Regulations

- a. Chimneys, cooling towers, agricultural buildings, flagpoles, elevators, bulkheads, fire towers, grain elevators, steeples, water towers, and normal electric distribution poles may exceed the height regulations of this Local Law for

principal and accessory structures, but shall comply with other applicable existing or hereafter adopted Local Laws of the Town of Arcadia.

- b. No sign, nameplate, display, or advertising device of any kind shall be inscribed upon or attached to any chimney, tower, tank, or other structure which extends above the height limitations without the consent of the Town Board.

Sec. 5.3 Accessory Uses

- a. General. An accessory use shall not include a use which is not permitted in the District or which alters the character of the premises on which it is located or impairs the surrounding neighborhood. An accessory use shall be located on the same lot with the use to which it is accessory.
- b. Unattached Accessory Structures. Accessory structures or uses which are not attached to a principal structure or use may be erected in accordance with the following requirements:
 - 1. Except for farm structures, an accessory structure may not exceed twenty (20) feet in wall height, 3,000 square feet in area, nor more than 40% of a rear yard as required in Article 4.
 - 2. No accessory structure or use shall be located closer to the street than the front yard setback required for a principal structure in the District in which such accessory structure may be located.
 - 3. For corner lots, the setback from the side street shall be the same for accessory buildings as for principal buildings.
 - 4. The maximum number of unattached accessory structures per lot shall be three (3), no more than two (2) of which may be smaller than 150 square feet, unless the accessory structure is for a Farm use and then there shall be no limit.
- c. Attached Accessory Structures. When an accessory structure is attached to the principal building, it shall comply in all respects with the yard requirements of this Local Law applicable to the principal building.

Sec. 5.4 Additional Requirements for Dwellings, Including Mobile Homes

- a. The minimum width of a dwelling, at its narrowest dimension, not including porches or patios, shall be twenty-four (24) feet, except that manufactured homes in approved manufactured home parks shall have a minimum width of fourteen (14) feet. The width requirement shall not be met by joining together, in any fashion, two (2) or more manufactured homes that are designed and intended to be utilized as single family dwellings.

- b. All dwellings must have a concrete or masonry foundation that extends at least forty-two (42) inches below ground level.
- c. The construction and installation of all structures, including dwellings and appurtenant utilities, shall conform to provisions of the Codes of New York State and all other applicable standards.
- d. All dwellings shall be provided with an adequate supply of potable water and a safe and adequate sewage disposal system.
- e. Shall have provision for the indoor storage of such things as machinery, tools, recreation equipment, and lawn furniture.

Sec. 5.5 Off-Street Parking and Loading Requirements

- a. Parking Required. In all Districts, for every use and for every building or structure hereafter erected, altered, or extended, there shall be provided off-street parking facilities in accordance with the requirements of Sec. 5.7 which is hereby adopted and made a part of this Local Law. Provision of such off-street parking shall be a condition of any permit issued by the Code Enforcement Officer.
- b. Size and Access. Each off-street parking space shall be no smaller than ten (10) feet by twenty (20) feet in size exclusive of access drives or aisles, and shall be of usable shape and condition.
- c. Number Required. The number of off-street parking spaces required shall be as set forth in Sec. 5.7. In the case of any building, structure, or premises, the use of which is not specifically mentioned in Sec. 5.7, the provisions for a use which is mentioned and to which said use is similar, in the opinion of the Code Enforcement Officer, shall apply.
- d. Use Restrictions. No required off-street parking space shall be used for storage, servicing, or dismantling of automobiles or other vehicles.
- e. Off-Street Loading. In all Districts, for every use involving vehicles for receipt or distribution of goods, merchandise, raw materials, or finished products, adequate off-street vehicle standing or storage space shall be provided so as to avoid undue interference with the public use of streets or other public rights-of-way.

Sec. 5.6 Construction, Grade and Drainage of Drives and Roadways

Driveways or private roadways may be constructed, connecting to a State, County, or Town Road, only with the approval of the Town Highway Superintendent in accordance with this Section and in accordance with the Town of Arcadia Driveway Installation and Replacement Policy, including consistent with the approval of NYSDOT where required. The Highway

Superintendent may require a culvert placed at the road ditch line, of a minimum size of Twelve (12) inches in diameter and twenty (20) feet long. Size, location, and depth shall be approved by the Town Highway Superintendent, or placed by him/her. The grade of said drive or private road shall not incline or decline with a slope greater than 10% (10' per 100'), or whatever slope may be permitted per the Town of Arcadia Subdivision and Development Regulations, whichever is more restrictive. The slope shall not start nearer to the public road than at a point fifteen (15) feet back of the road ditch line, or whatever setback is required by the Town of Arcadia Subdivision and Development Regulations, whichever is more restrictive. No erosion from a private drive shall be permitted into the road ditch or the highway.

Sec. 5.7 Minimum Required Off-Street Parking

TOWN OF ARCADIA, NEW YORK

Land Use or Activity	Spaces*
1. One and two family dwelling unit: for each dwelling unit	1.00
2. Multifamily dwelling unit: for each dwelling unit	1.50
3. Boarding and rooming house: for each 2 rooms let for profit	1.50
4. Motel: for each unit	1.25
5. Church, assembly hall, sports area, or similar place of public assembly: for each 4 persons to be accommodated	1.00**
6. School: for each employee	1.00
plus: for visitors	10.00
7. Public building or social organization: for each	
200 square feet of gross floor area	1.00
plus: for each ~ persons to be accommodated	1.00
8. Medical or dental clinic or office: for each doctor or dentist	8.00
9. Office, general: for each 400 square feet of gross floor	1.00
10. Retail store, store group, shop, etc.: for each 150 square feet of gross floor area	1.00
11. Supermarket or shopping center: for each 1,000 square "feet of gross leasable area	5.00
12. Restaurant, bar, night club: for each 100 square feet of gross floor area	1.00
13. Drive-in restaurant: for each 4 seats	1.00
minimum	24.00
14. Bowling Alley or Tennis Court: for each alley or court	4.00
15. Manufacturing, research or testing laboratories: for each 1,000 square feet of gross floor area or for each 2 employees, whichever is greater	1.50
16. Wholesaling, warehouse: for each employee	1.00
plus: for each 2,000 square feet of gross floor area	1.00

* When totals indicate that a partial space is required, a full space shall be provided. Example: a seven (7) unit multifamily structure requires 10.5 spaces. Eleven (11) should be provided.

** May be provided at another location no greater than 600 feet away.

Sec. 5.8 Farm Animals

- a. Farm animals maintained as part of a farm operation as defined herein that is included within a County Agricultural District shall not be subject to the regulations of this Section, except that all animal housing and waste shall be kept a minimum of 100 feet from any waterbody or well.
- b. Farm animals maintained as an accessory use to a residence are permitted in the Agricultural District only and shall comply with the following conditions:
 1. Fences – Farm animals shall be fenced so as not to be able to come within fifteen (15) feet of any boundary line.
 2. No structure housing such animals shall be located closer than 100 feet to any street or property line.
 3. Pre-existing Animals – Farm animals maintained on a property at the time of enactment of this Local Law which are in excess of the number allowed in this Section may continue to be allowed until their transfer off of the property (i.e., sale), their death or until the ownership of the real property is transferred, provided that the occupant of the property registers the total number and type of animal with the Code Enforcement Officer within thirty (30) days of the enactment of this Local Law. In no event shall said excess farm animals be replaced where the replacement animals would be in excess of the number allowed herein.
 4. No stable, similar animal housing, or confining areas shall be allowed on lots of less than five (5) acres.
 5. No stable, similar animal housing, or confining area shall be placed within 100 feet from an existing residence nor within 100 feet from any water body, watercourse, or well. The minimum distance shall be increased to 200 feet if the waterbody, watercourse, or well is downgradient from the animal housing or confining area.
 6. Minimum acres required to house or have any horse, cow, beef cattle, sheep, goat, or other four-legged domestic-type farm animal, also including adult or fully grown chickens, ducks, geese, or other fowl, or birds of any type, shall be five (5) acres.
 7. Not more than one (1) “Animal Unit” may be kept per each one (1) acre of combined pasture and paddock area. For the purpose of this Section, the

following table shall be used to determine Animal Units for various types of farm animals:

Type of Farm Animal	Animal Units per Animal
Cows/Steers/Pigs/Goats/Sheep/ Llamas	1.0 unit (1 per acre)
Horses	1.5 units (1 per 1.5 acres)
Chickens/Ducks/Turkeys	0.0333 unit (33 chickens per acre)
Other farm animals not listed	Average weight of the animals divided by 1,000 lbs.

8. Combinations of animals may be kept provided the cumulative total does not exceed one (1) Animal Unit per each one (1) acre of pasture and paddock combined.
9. Contiguous land not owned by the owner of livestock, but which is available to the owner of the livestock for grazing, shall be considered when determining the number of Animal Units the livestock owner may harbor.
10. No storage area for manure or other materials creating dust or odor shall be permitted within 100 feet of any of the following:
 - i. Street or residential property line;
 - ii. A waterbody as defined herein;
 - iii. A watercourse depicted in the Zoning Map; or
 - iv. A well providing a source of potable water.

In no case shall a pasture be considered a storage area for manure, nor shall a pasture be required to be set back 100 feet from any residential property line, street, watercourse, or waterbody.

11. Any building, storage area, or structure used for the storage of manure or other materials creating dust or odor shall be located a minimum of 100 feet from all lot lines.
12. Site Plan review by the Planning Board shall be required for manure storage facilities, or for any structure that is not completely enclosed, that are used primarily for the storage of liquid agricultural or food processing wastes.

Sec. 5.9 Manure Storage

- a. Manure storage facilities, as defined herein, shall require Site Plan approval by the Planning Board and shall comply with the requirements of this Section.

- b. All manure storage facilities shall be designed in accordance with United States Department of Agriculture, Natural Resources Conservation Service Standards (NRCS).
- c. Manure storage facilities shall be designed to prevent animals and people from accidentally falling into and/or becoming trapped in any portion of said manure storage facility. In the case of ground level pits used as manure storage facilities, such facilities shall be surrounded by a minimum four (4) foot high fence. Said fence shall be of sufficient design to make the facility secure from small children.
- d. Site plan applications involving a Manure Storage Facility shall include the following:

Either:

- 1. A letter from the Wayne County Soil and Water Conservation District stating the date of review of said plans and containing said District's recommendations concerning compliance of the plans with said NRCS standards; or
 - 2. The seal of a Professional Engineer licensed to practice in New York State.
- e. Copies of soil boring logs and reports taken in the vicinity of the proposed manure storage facility, as designated appropriate by either the Wayne County Soil and Water Conservation District or a Professional Engineer licensed to practice in New York State.
 - f. The results of a deep hole inspection of soil and groundwater conditions at the site of the proposed manure storage facility conducted by either the Wayne County Soil and Water Conservation District or a Professional Engineer licensed to practice in New York State.
 - g. Complete design details of any structures to be built and materials to be used therein.
 - h. A statement as to the type and number of animals expected to contribute waste to the facility, and the maximum number of animals said facility is capable of supporting.
 - i. A statement as to the operation of the manure storage facility, such as the number of times per year residue is to be removed and where to, and whether mechanical agitation or aeration is involved.

Sec. 5.10 Signs

- a. Intent. The legislative intent of this chapter is to promote and protect the public health, welfare, and safety of the inhabitants of the Town by regulating existing

and proposed advertising, advertising Signs, and Signs of all types which are intended to be viewed from outdoors and to thereby create a more attractive economic and business climate, enhance and protect the physical appearance of the community, preserve the scenic and natural beauty of designated areas, preserve property values, and provide a more enjoyable and pleasing community. It is further intended to reduce Sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by Signs overhanging or projecting over public rights-of-way, provide more open space, and curb the deterioration of natural beauty and community environment. It also intends to permit businesses and professions to make use of Signage that is important to their individual and collective success.

- b. Definitions. As used in this Sign subsection, the following terms shall have the meanings indicated:

Attention-getting Device. Any nongovernmental flag, streamer, spinner, light, balloon, or similar device or ornamentation used for purposes of attracting attention for promotion of business use.

Awning Sign. Any visual message incorporated into a nonpermanent structure projecting from a building and providing protection from the elements, or a marquee.

Backlighting. Any indirect source of light which is located from behind the sign surface or shielded from the viewer's eyes by a translucent or opaque material.

Building Directory Sign. A sign listing the name and location of all tenants in a structure.

Building Frontage. The width of a building facing a street or public parking lot; in the case of a corner lot, it may be either frontage at the option of the applicant. Where a mall exists, "building frontage" shall mean that portion of the building perimeter facing a street or designated parking area; in the case of two such perimeters, it may be either frontage at the option of the applicant.

Building Identification Sign. A sign which identifies the name of the building and does not identify any individual business activity.

Business Frontage. The width of building face allocated to each individual occupant.

Business Use/Business Sign. A sign used by or on behalf of a restaurant, retail, commercial, industrial, service, or other business enterprise.

Changeable-Copy Sign. An announcement sign, bulletin board, or sign which makes provision for changing letters and other copy.

Code Enforcement Officer. The official of the Town, appointed by the Town Board, charged with the duty to enforce the Town Code.

Exterior Entrance. A direct entrance from a public way to a habitable or tenantable space.

Flag. Any state, municipal, county, or national flag. The national flag must be displayed in accordance with the Federal Flag Code (see United States Code Title 4, Chapter 1). No flag pole shall exceed fifty (50) feet for public display, or twenty-five (25) feet for home use. All flags shall be proportionate to the height of the flag pole as the Federal Flag Code.

Freestanding Sign. A single or multi-faced sign affixed to a supporting structure or embedded in and extending from the ground or detached from the building.

Illuminated Sign. Any sign illuminated by electricity, gas, or other artificial light, including reflective or phosphorescent light.

Logo. Any picture, shape, or drawing, with or without letters or words, used to identify a product, service, business, or organization.

Municipal Sign. Any sign relating to the use of a building or property by a government, public agency, or municipal board.

Non-Business Sign. Any sign, other than a Sign promoting a Business Use.

Portable Sign. A sign that is not permanently affixed to a building, a structure, or the ground.

Public Interest Signs. Signs that are necessary and for the benefit of the public interest which are limited to signs of the following nature: signs which identify buildings via address, street number, or building number; signs which direct people in the interest of public safety (i.e., traffic and directional signs that are non-business in nature); signs which warn of immediate danger on-site; and signs required by law.

Sign. Any material, structure, or part thereof, or any device attached to a structure or painted or represented thereon, composed of or upon which is placed numbered, and/or lettered, graphical, pictorial, or other matter for visual communication or display, when used or located out-of-doors or on the exterior of any building or indoors as a window sign, to display an advertisement, notice, directional matter, name, or if otherwise utilized to direct or draw attention to a business use. The term "sign" does not include signs erected and maintained

pursuant to and in discharge of any governmental function within this political jurisdiction, or required by any law, ordinance, or governmental regulation, or the flag or insignia of any nation or of any governmental agency having jurisdiction over the Town of Arcadia.

Sign Area. The square footage of the smallest square or rectangle which will enclose all elements which form the sign. Supporting structures will not be considered as part of the sign surface area unless lit by their own specific external light source. Freestanding signs may include an identical back without counting the identical area. Any additional form not integral to the building's architecture will be considered as part of the sign.

Sign Permit. A permit which is issued by a Code Enforcement Officer after approval of a Sign Permit application by the Planning Board.

Temporary Sign. Any sign (movable or stationary) which has not been approved as a permanent sign, which is not designed as a permanent sign or which is not otherwise intended to be a permanent sign, and which typically promotes an event that occurs at a specified time. Such signs may be posted for the period of the event and the preceding thirty (30) days. A Temporary Sign must be removed within forty-eight (48) hours of the end of the subject event. A Temporary Sign which advertises the same or a substantially similar event in excess of two (2) times within a calendar year requires a permit.

c. Sign Permits.

1. Permit Required. A Sign Permit shall be required prior to erecting a new sign or prior to materially altering any existing sign within the Town of Arcadia, except as provided in Subsection 2 of this section.
2. Exceptions – Permit Not Required. The following signs shall not require a permit:
 - i. Non-Business Signs, as defined and regulated in this section.
 - ii. Municipal Signs.
 - iii. Repair and replacement, in kind, of signs that conform with this section.
 - iv. Temporary Signs. Temporary Signs must be at least six (6) feet from the public right-of-way and may not reduce the line of sight for ingress or egress from a property. They shall be limited to six (6) square feet in area and may reach a height of no greater than four (4) feet from the ground. Non-Business Use Temporary Signs are limited to three (3) per property.

Business Use Temporary Signs are limited to one (1) per property. Multiple Business Use Temporary Signs may be placed no closer to each other than 500 feet from the nearest Sign advertising the same event.

A Temporary Sign may only advertise the same or substantially similar event twice in the same calendar year, may be placed up to thirty days prior to any event related to the Temporary Sign, and must be removed within two days after the event for which it is advertising has ended. Additional specifications follow:

- (a) Sale, lease, or open for inspection Temporary Signs relating to the real property transfers no greater than six (6) square feet in area. Such signs are limited to one (1) per property, except that an additional two (2) signs advertising that the premises is "open" are permissible only during the period that the property is open for inspection. All signs under this Subsection "(a)" may be placed no further from the subject property than the nearest collector street.
- (b) Sale, lease, or open for inspection Temporary Signs larger than six (6) square feet will require a Sign Permit which shall expire after six (6) months. These larger signs shall not exceed twenty (20) square feet, nor shall they be placed on residential property or in residential districts, nor shall they be closer than thirty-five (35) feet from the pavement edge. Signs of six (6) square feet or less shall be limited to one (1) on the property and up to two (2) additional displayed only while the property is open for inspection no further from the property than the nearest collector street.
- (c) Under Construction. One (1) Temporary Sign may be installed at an entryway or on primary frontage during construction of a building or buildings. Said Sign may have a maximum area of thirty-two (32) square feet. The owner may attach to said sign up to four (4) additional nameplates to identify certain subcontractors, financiers, etc., related to the project, which nameplates may be no greater in size than four (4) square feet each. This sign shall remain at least thirty (35) feet from any road or shoulder pavement. Said sign shall be removed upon substantial completion of construction.
- (d) Election Signs. Signs advertising candidates in relation to an election, where the "event" advertised involves an

election, are Temporary Signs. In the case that the sign is related to a primary race, said sign may be displayed between the end of the primary and the end of the general election (i.e., the primary and the general election shall be considered one event).

- v. Traffic Control Signs provided that such signs do not exceed two (2) square feet.
- vi. Window or wall signs no greater than two (2) square feet in area that are Public Interest Signs. In no event may a sign within a window cover more than 30% of the total aggregate area of the particular window's total area (i.e., 70% of the window must remain free of any signs).
- vii. Signs required by law.

3. Sign Permits.

- i. Sign Permits for any Business Use in any zoning district shall be issued by the a Code Enforcement Officer after approval of a Sign Permit application pursuant to the procedure set forth in this Section.
- ii. Where a Sign Permit is sought in connection with a Site Plan application, information relating to the issuance of a Sign Permit shall be included with the Site Plan application. The Planning Board shall issue an advisory opinion relating to the issuance of any Sign Permit(s) to the Code Enforcement Officer as part of its Site Plan review.
- iii. Completed Subdivision Signs. A completed subdivision project greater than five (5) lots in the aggregate may maintain one (1) additional sign in addition to any other signs allowed by this Section. Monumental, sculpted, or related signs shall constitute a sign addressed by this subsection. Said additional sign shall be for the purposes of generally identifying the subdivision project. This sign shall be installed at an entryway or at primary frontage. Said sign shall not be constructed until removal of any temporary subdivision sign. This sign may only be constructed after approval by the Planning Board of a Sign Permit application (pursuant to the procedures set forth herein) and issuance of a Sign Permit by a Code Enforcement Officer. The sign shall not be located closer to any street or road than the right-of-way boundary.

4. Sign Permit Application.

- i. All applications for a Sign Permit shall be made in writing to the Code Enforcement Officer. Upon receipt of the application, at his/her sole discretion, the Code Enforcement Officer may refer the application to the Planning Board. Should the Code Enforcement Officer refer the Application to the Planning Board, a Sign Permit may only issue after approval of the proposed sign(s) by Resolution of the Planning Board.
- ii. The application shall provide the following information:
 - (a) The name, address, and telephone number of the applicant, and, if different, the name, address, and telephone number of the owner of the land where the sign is to be erected.
 - (b) The location of the building, structure, or land to which or upon which the sign is to be erected.
 - (c) A detailed drawing to scale not exceeding one (1) inch equals one (1) foot illustrating the construction detail of the sign, the lettering and/or the pictorial message of the sign, the color and positioning of the sign, the position and height of other devices relating to the erection of the sign, a location plan drawn to scale not to exceed one (1) inch equals twenty (20) feet showing the position of the sign on any buildings or structures, including building elevation, and any private or public right-of-way.
 - (d) The zoning district in which the sign is to be placed.
 - (e) For freestanding signs, a tape location or survey indicating the position of setbacks relative to the position of any freestanding sign, including the location and setbacks of all buildings on the property.
 - (f) Identification of all other signs existing on the land, and whether those signs conform with this Section.
 - (g) Written consent of the owner of the property on which the sign is to be erected.
 - (h) The signature of the applicant attesting to the accuracy of the petition.
 - (i) The applicant shall provide a copy of any Site Plan applicable to the parcel upon which the sign is proposed.

- iii. All applications for a Sign Permit shall be reviewed by the Code Enforcement Officer within thirty (30) days of submission of a complete application, other than Sign Permit applications which are part of the Site Plan review process.
 - (a) Where a referral has been made to the Planning Board, the Code Enforcement Officer may not move forward with issuance of a Sign Permit until the Planning Board has approved the proposed sign by resolution. Should the Planning Board issue an approval resolution, the Code Enforcement Officer must issue a Sign Permit consistent with the Planning Board's approval resolution.
 - (b) Any denial of a Sign Permit shall be in writing to the applicant.
 - (c) Where a Code Enforcement Officer approves a Sign Permit application, a Code Enforcement Officer shall issue a Sign Permit. Said Sign Permit will be valid for six (6) months from the date of issuance. A Code Enforcement Officer shall be responsible for inspecting the installed sign for compliance with the Sign Permit and any existing Site Plan, and, if compliant, shall issue a certificate of compliance.
 - (d) Where a Code Enforcement Officer finds that a sign does not conform with the Sign Permit, the applicant shall be notified in writing and shall have thirty (30) days to correct the cited deficiencies.
 - (e) Where the applicant does not obtain a Certificate of Compliance, any existing Sign Permit shall expire, any sign or part of a sign shall be removed in accordance with this Section, and the applicant will be required to make a new Sign Permit application.
 - (f) Nothing in this Section shall alleviate the need for a variance in the case of a sign that does not conform to the requirements of this Section.
- iv. The following shall be considered when reviewing a Sign Permit Application:

Compliance with all provisions and requirements set forth in this Section, including, but not limited to, design and appearance, etc.

- (a) Sign placement in relation to other structures on the Site, traffic patterns on the Site, parking, etc.
 - (b) Safety of sign.
 - (c) Visibility of sign.
 - (d) Landscaping around the sign.
 - (e) Consistency of sign within the subject property, including size, architectural features, color, font, etc.
 - (f) Consistency of sign within the surrounding neighborhood, including the character and orderly development of the neighborhood.
 - (g) Any additional factors which may be relevant.
- d. Design and Appearance; Construction and Installation.
 - 1. Design and Appearance.
 - i. All signs and supporting structures must be in harmony with the style and scale of the architectural features of the buildings on which they are placed or to which they relate.
 - ii. All signs must be appropriate to the type of activities they represent.
 - iii. Layout of all signs and their messages must be orderly and of simple shapes.
 - iv. No more than two (2) typeface fonts may be used on any one sign or group of signs indicating one message.
 - v. The number of different colors or shades of colors used on one (1) sign or group of Signs shall be of a consistent theme.
 - vi. All signs that are lit must be so designed as to reflect light and glare away from surrounding properties and the right-of-way, and not be greater than necessary to make the sign legible at night from the right-of-way. Lighting among signs shall be consistent with surrounding signs.
 - vii. No sign within a residential district may be lit unless it is a permitted sign for a permitted or special permitted Business Use or permitted by the Zoning Board of Appeals.

viii. Groups of related signs must express uniformity and create a sense of harmony in appearance.

ix. Freestanding signs may be monument style or pylon style.

2. Construction and installation.

i. All signs and supporting structures must be in harmony with the style and scale of the architectural features of the buildings on which they are placed or to which they relate.

ii. Signs shall comply with all applicable building and fire codes.

iii. No sign shall interfere with utility line clearance.

iv. No sign shall interfere with the use of any fire exit, door, or window, or other access to a building. No sign shall obstruct the vision of any access or be designed in such a way as to confuse access to a fire escape route.

v. No sign shall interfere with sight distances or otherwise interfere with the ability of motor vehicle traffic to make safe movements.

vi. No sign shall project into a public right-of-way.

vii. No freestanding sign requiring a permit shall be closer than thirty-five (35) feet from the pavement of the public right-of-way.

e. Additional Requirements for Business Use Signs.

1. Business Use Signs are not permitted in a Residential District except to identify a permitted business in such zoning district. Such permitted businesses may include businesses subject to Special Use Permits as well as home occupations.

2. Business Use Signs are permitted in all districts except Residential (unless consistent with paragraph "1" above), subject to the following:

i. Building or Plaza Identification. One (1) freestanding building identification sign may be installed which identifies the name of the building or plaza. A building/plaza identification sign may be freestanding, not to exceed one (1) square foot per one (1) foot of building frontage, but shall in no event exceed a height of twenty-five (25) feet.

- ii. Multiple Tenant Structure or Plaza. A multiple use development, such as a building, plaza, or mall, may have a directory sign not exceeding ten (10) square feet in total area.
- iii. Number and Size of Business Use Signs.
 - (a) In addition to any building identification sign and directory sign, each tenant of a building or plaza with a separate entrance for patrons shall be entitled to at least one (1) Business Use Sign.
 - (b) The total sign area for Business Use Signs shall not exceed one and one-half (1.5) square feet for each foot of building frontage belonging to the particular tenant.
 - (c) The minimum size of a Business Use Sign shall not be less than one-half ($\frac{1}{2}$) square foot.
 - (d) Any sub-tenant of a principle tenant is limited to the sign area of the principal tenant as described within this Section.
 - (e) Sign Face. A Business Use Sign may have two (2) sign faces, subject to the total sign area restriction within this Section, when the tenant's space within the building has frontage on two (2) public rights-of-way.
 - (f) Additional Sign. An additional tenant identification sign affixed to the building to be no greater in sign area than one-half ($\frac{1}{2}$) of one (1) square foot for each foot of linear building frontage belonging to the particular tenant shall be permitted only when the primary entrance or primary parking to the building are at the rear of the building with respect to the public right-of-way, and no parking exists at the portion of the building which abuts the public right-of-way. This shall not count against the square footage permitted in paragraph "(b)" above.
 - (g) A Business Use Sign must be mounted to the building. Freestanding Business Use Signs are not permitted.
- iv. The Planning Board, in conjunction with a new Site Plan review, may require additional building identification and directory signs. The Planning Board may not increase the total sign area permitted for a specific building or tenant sign.

- v. Public Interest Signs, such as those displaying assigned street numbers, must be displayed and shall not be counted against the Business Use Sign area.
 - 3. The provisions in this Section 5 shall not act to prevent non-business entities from the use of signs as allowed herein for non-business purposes. Individuals or entities which are not businesses may make use of these provisions for the purposes set forth herein.
- f. Prohibited Signs.
- 1. Posted fliers are not allowed in Residential Districts or in a public right-of-way in any district, and may be removed by the Code Enforcement Officer without notice.
 - 2. Moving signs, including flashing, blinking, animated, rotating, or projected surfaces that change with time. However, time and temperature displays are not prohibited by this Section. Further, Changeable-Copy Signs are permitted provided that message is not changed more than once per minute.
 - 3. Off Premises Business Use Signs. Unless otherwise set forth herein, Business Use Signs must advertise a bona fide business conducted on the premises where the sign is located.
 - 4. Roof signs that extend beyond the peak of the roof.
 - 5. Temporary Signs, except as allowed at Subsection c.2.iv. A Temporary Sign may only advertise the same type of event twice in the same calendar year, and shall not require a permit. Temporary Signs shall be limited to six (6) square feet in size.
 - 6. Attention-getting devices such as balloons, nongovernmental flags, streamers, and the like may be used to advertise an event for no more the three (3) consecutive days, and not more than ten (10) times in a calendar year.
 - 7. A flag indicating that a business is open may be flown only during business hours. No more than one (1) such flag per building if attached to a building, and no more than one (1) such flag per site entrance if detached from a building. The Code Enforcement Officer may remove a flag without notice.
 - 8. Price signs are prohibited except for gas stations within 100 feet of the closest gas pump, and where required by county, state, or federal law.

9. Signs that cause a traffic hazard by obstruction, position, shape, or wording, or symbols that confuse vehicle traffic, and may be removed by the Code Enforcement Officer without notice.
 10. Sandwich board and portable signs may be used, provided such signs are displayed only during the businesses hours of the business advertised, and no more than one (1) such sign is displayed per business entrance, and no more than one (1) such sign is displayed at a site entrance. Sandwich board and portable signs must be displayed within twenty-five (25) feet of the business entrance, and not conflict with pedestrian or vehicular traffic. Such sign must comply with the regulations concerning Temporary Signs and attention-getting devices above. Noncompliant sandwich board signs may be removed by the Code Enforcement Officer without notice.
 11. Billboards or other structures designed for the purpose of renting or leasing space for the purpose of displaying advertisements toward vehicular traffic, except for billboards in Agricultural Districts with a Special Use Permit.
 12. Signs which permanently advertise a particular brand that a business offers for sale.
 13. Signs that produce vapors, smoke, particles, or noise may be removed by the Code Enforcement Officer without notice.
 14. Illegible signs and signs in disrepair may be removed by the Code Enforcement Officer without notice.
 15. Signs may not be placed on Town of Arcadia property (other than by the Town itself), including in Town right-of-ways.
 16. Signs may not be placed on private property without the respective property owner's permission.
- g. Nonconforming Signs. All signs not in compliance with any provision of this Section, upon the effective date specified herein, shall be deemed nonconforming.
1. A Nonconforming Sign shall be removed or brought into conformity with the requirements of this Section upon a change in message upon the sign, or a change in use of the property it is located on.
 2. A Nonconforming Sign related to an existing use shall be removed or made conforming prior to the issuance of any subsequent sign permit for such use.

3. Applications for sign approval and sign permit for the replacement of an existing Nonconforming Sign to a legal conforming sign which are submitted before two (2) years from the effective date of this Section shall be exempt from all applicable fees required by this Section, but not from any subsequent fees.

h. Enforcement.

1. It shall be the duty of the Code Enforcement Officer or his/her delegate to administer and enforce the provisions of this subsection.
2. When violations occur under this subsection, the Code Enforcement Officer shall cause notice to be given to the owner of the premises on which the sign is located, or to the agent thereof (or to that person who erected the sign, where the sign is on public property). Said notice may be given by first class mail, or by issuance and service of a notice of violation. If any of said persons fail to abate said violation within ten (10) days after such notice has been personally served upon them, or within twenty (20) days after such notice has been sent to said persons by first class mail at their home or business address, said persons shall be subject to a civil penalty of \$100.00 for each and every day that said violation continues, recoverable by suit brought by the Code Enforcement Officer in the name of the Town of Arcadia.
3. Each individual sign will constitute a separate violation.
4. The Code Enforcement Officer is hereby empowered to issue appearance tickets for violations of this chapter.
5. The Code Enforcement Officer or authorized representative may serve a written stop-work order upon the applicant or other person who commits or assists in any such violation requiring the correction of any violation of this Section.
6. Temporary Signs not removed within forty-eight (48) hours after the end of the pertinent event will be removed immediately by the Town of Arcadia. Where removed from private property, notice will be sent to the property owner advising of the removal.
7. Should the property owner wish to recover the sign, such property owner will be required to pay over to the Town of Arcadia the sum of \$20.00 to cover the costs of detecting, removing, transporting, and storing the Temporary Sign. Temporary Signs which are removed will be held for a period of seven (7) days from date of removal and then will be destroyed.

8. Temporary Signs placed on Town of Arcadia property may be removed without notice immediately. Should the owner of the sign be reasonably identifiable, notice will be sent to such owner regarding removal. Should the sign owner wish to recover the sign, such sign owner will be required to pay over to the Town of Arcadia the sum of \$20.00 to cover the costs of detecting, removing, transporting, and storing the Temporary Sign. Temporary Signs which are removed will be held for a period of seven (7) days from date of removal and then will be destroyed.
 9. The Code Enforcement Officer, on behalf of the Town of Arcadia, may maintain an action for an injunction to enjoin violations of this Subsection.
 10. A permit issued pursuant to this Subsection may be revoked by the Code Enforcement Officer if it appears that the sign erected pursuant to the permit no longer conforms to the provisions of this Section. Notice of revocation may be delivered personally or by first class mail; revocation shall occur immediately in the case personal delivery and after ten (10) days when delivery is by regular first class mail.
 11. The remedies provided herein shall be cumulative and shall be in addition to any other remedies provided by law.
- i. Fees. All fees associated with this Subsection shall be charged to applicant pursuant to the Town of Arcadia Fee Schedule.
 - j. Sign Maintenance. All signs in the Town of Arcadia shall be properly maintained at all times. The Code Enforcement Officer shall have the authority to order the painting, repair, or removal of a sign and accompanying landscaping which constitutes a hazard to safety, health, or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment. Notification shall be by personal delivery or by certified mail. If the maintenance notice is not complied with within fifteen (15) days, it shall become an order to abate the sign or perform the maintenance or repair specified therein.
 - k. Review; Appeal.
 1. All approvals made in accordance with this Section shall be filed with the Town Clerk and the Codes and Development Department.
 2. Every request for a variance from the provisions hereof shall be taken before the Zoning Board of Appeals.
 3. Applications for renewal of a variance shall be supported by the same quantum of evidence required for the initial grant. The Zoning Board of Appeals may impose reasonable conditions to the granting of a variance, which may include durational limitations.

4. Review of determinations made hereunder by the Zoning Board of Appeals shall be governed by Article 78 of the New York Civil Practice Law and Rules and the Town Law. Any such proceeding shall be commenced within thirty (30) days of the filing of the decision sought to be reviewed and served upon the Code Enforcement Officer and the Town Clerk.
5. Review of determinations made hereunder by the Planning Board shall be governed by Article 78 of the New York Civil Practice Law and Rules and the Town Law. Any such proceeding shall be commenced within thirty (30) days of the filing of the decision sought to be reviewed and served upon the Code Enforcement Officer and the Town Clerk.
6. Abandonment of variance. If a sign for which a variance has been granted hereunder is not erected within one (1) year from the date of the variance, or if a sign for which a variance has been granted hereunder is removed for a continuous period of one (1) year, the variance for said sign shall be deemed abandoned and of no effect.

Sec. 5.11 Outdoor Lighting

- a. Purpose. In order to preserve the scenic beauty, rural setting, character, and the dominating influence of the natural environment of the Town and the health, safety, and welfare of its citizens and visitors.

The intent of these regulations is to eliminate glare and minimize the impact of ambient light on neighboring properties.

- b. Definitions.

Ambient Light. Indirect light, which is detectable beyond the illuminated area. Distinguished from glare.

Direct Light. Unshielded light rays.

Glare. Direct light rays, which extend beyond the effective lighting area.

- c. Applicability.

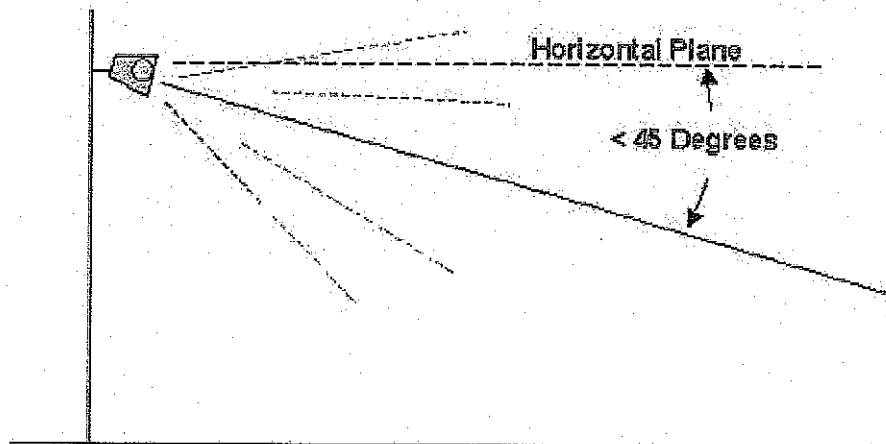
1. Except as exempted below, any new or lighting or the replacement of lighting fixtures associated with a land use that requires Site Plan or Subdivision review by the Planning Board shall comply with the regulations in this Section.
2. The following uses are exempt from the requirements of this section:

- i. Lighting required to support agricultural operations.
 - ii. Lighting that is required by state and federal regulating agencies, including, but not limited to, OSHA and MSHA.
 - iii. Lights operated by motion detectors that are set at no more than ten (10) minute duration after activation.
 - iv. Athletic field lighting, provided that reasonable measures are taken to minimize glare and light trespass.
 - v. Accent lighting or feature enhancing lighting is allowed, but shall be limited to fixtures with a maximum output of 800 lumens per fixture (40 watts incandescent or equivalent) regardless of the number of bulbs.
 - vi. Holiday and temporary lighting (less than thirty (30) days use in any one (1) year).
3. Existing lighting fixtures that do not comply with these regulations may remain in operation for the duration of their useful life. Replacement fixtures shall comply with these regulations.

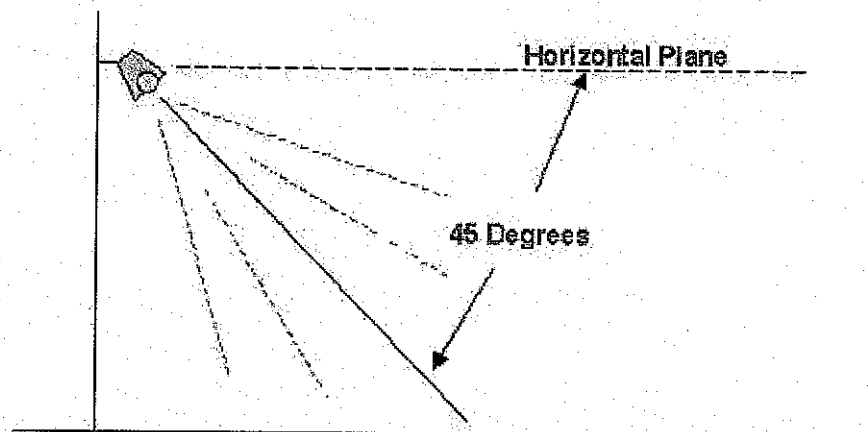
d. Criteria and Standards.

1. No exterior lighting shall radiate above a level horizontal plane (see Figures below).

Unacceptable



Acceptable



2. No outdoor light may be used in a manner that could interfere with the safe movement of motor vehicles on public thoroughfares.
 3. To the extent practical, ambient light across property lines shall be kept to a minimum.
- e. Process for Review. The Planning Board shall apply the standards and requirements in this Section to all applications for Site Plan and Subdivision review.

Sec. 5.12 Communication Towers.

- a. In addition to the following requirements of this Section, Communication Towers must also satisfy the requirements of Section 7 of this Zoning Law.
- b. Legislative intent. The Town of Arcadia recognizes the increased demand for wireless communications transmitting facilities and the need for the services they provide. Often these facilities require the construction of a telecommunications tower and related facilities. The intent of this section is to protect the Town's interest in siting such towers in a manner consistent with sound land use planning by minimizing the visual effects of towers through careful design, siting, and vegetative screening, avoiding potential damage to adjacent properties from tower failure or falling debris through engineering and careful siting of towers, and maximizing use of any new or existing tower, and encouraging the use of existing buildings and/or structures to reduce the number of towers needed, while also allowing wireless service providers to meet their technological and service objectives for the benefit of the public. This local law is intended to comply with the Federal Telecommunications Act of 1996.

- c. Definitions. As used in this Communication Towers Subsection, the following terms shall have the meanings indicated:

Accessory Structure. An accessory facility or structure serving or being used in conjunction with a Telecommunications Facility or Tower and located on the same lot as the Telecommunications Facility or Tower. Examples of such structures include utility or transmission equipment, base stations, storage sheds, or cabinets.

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

Co-Located Antennas. Telecommunications Facilities which utilize existing Towers, buildings, or other structures for placement of Antenna(s) and which do not require construction of a new Tower.

Telecommunications Facilities. Towers and/or Antennas and Accessory Structures used in connection with the provision of cellular telephone service, personal communications services (PCS), paging services, radio and television broadcast services, and similar broadcast services.

Tower. An uninhabitable structure on which Antennas are designed to be located. It includes, without limit, freestanding towers, guyed towers, monopoles, and other similar structures which may employ camouflage technology.

- d. Approvals required for telecommunications facilities.

1. No Telecommunications Facilities shall hereafter be used, erected, modified, or reconstructed except after the granting of a Special Use Permit by the Town Planning Board and in conformity with the provisions of this section. No existing structure shall be modified to serve as a Telecommunications Tower unless in conformity with this Section.
2. New Telecommunications Facilities shall be permitted in any zoning district upon the issuance of a Special Use Permit and the granting of Site Plan approval.
3. In reviewing an application for a Special Use Permit for a new Telecommunications Facility, the Planning Board shall, at a minimum, require that the following criteria be met:
 - i. Site location. A proposed location shall receive approval from the Planning Board following satisfaction of the following requirements:

- (a) Documentation of the need for the use of the site proposed, an analysis demonstrating that proposed location is necessary to meet the needs of the applicant's telecommunications system and to provide adequate service and coverage to the intended area. For new Towers, that there is not a technologically feasible and available location on an existing cellular tower or existing high structure or municipal, government-owned, or school district property.
- (b) A completed environmental assessment form (EAF) along with documentation regarding visual impacts, including a simulated photographic visualization of the site, with particular attention to visibility from key viewpoints identified in the EAF. The Planning Board may require submittal of a more detailed visual analysis based on the results of the EAF.
- (c) Preference shall be given that the proposed facility be located in a higher use district or on higher-intensity-use property. Such preference, from most favorable to least favorable, is as follows:
 - (1) Co-location on property with an existing Tower.
 - (2) Industrial District.
 - (3) General Business District.
 - (4) Municipal or government-owned property.
 - (5) Agricultural District.

The applicant shall provide an explanation as to how this provision was considered and applied in selecting the site and why a lower-preferred site was selected over a higher-preferred site, if a lower-preferred site was selected.

- ii. A Site Plan prepared to scale in sufficient detail and accuracy showing at a minimum:
 - (a) The exact location of the proposed Tower, together with any guy wires and guy anchors, if applicable.
 - (b) The maximum height of the proposed Tower.

- (c) A detail of Tower type (monopole, guyed, freestanding, or other), including any appendages.
- (d) The location, type, and intensity of any lighting on the property.
- (e) Property boundaries and names of adjacent landowners.
- (f) Proof of the landowner's consent if the applicant does not own the property.
- (g) The location of all other structures on the property and all structures on any adjacent property within fifty (50) feet of the property lines, together with the distance of those structures to any proposed Tower.
- (h) The location, nature, and extent of any proposed fencing, landscaping, and/or screening.
- (i) The location and nature of proposed utility easements and access road, if applicable.
- (j) A grid or map of all of the applicant's existing Telecommunications Facility site areas in the Town.
- (k) All information regarding the Tower and Antenna prepared by the manufacturer of the Tower or Antenna or the applicant, including, but not limited to, the following:
 - (1) The make and model of the Tower to be erected.
 - (2) The manufacturer's design data for installation instructions and construction plans.
 - (3) The applicant's proposed Tower maintenance and inspection procedures and records system.
 - (4) Identification of any anti-climb device to be installed.
 - (5) Confirmation that the Antennas to be mounted on the Tower will be operated only at FCC-designated frequencies and power levels.
- (l) All proposed signage, provided that no Tower or facility shall contain any advertising signs or advertising devices, except signage identifying a health or general welfare

message and owner(s) name and contact information intended solely for the protection of the general public.

- (m) Certification by a licensed New York Professional Engineer confirming the structural integrity of the Tower.

iii. Height.

- (a) The Planning Board shall approve, subject to the limitations set forth in Subsection 3(iii)(b) below, the height of each proposed Telecommunications Tower. In reviewing such issue, the Planning Board shall consider the minimum height necessary for the applicant's needs and may also take into consideration the potential for co-location in approving or requiring additional height above the minimum necessary for the applicant's needs.
- (b) The maximum height for Telecommunications Towers permitted under this section, including any Antennas, extensions, or other devices extending above the Tower, measured from the ground surface immediately surrounding the site, shall be the lower of 200 feet or a height below which lighting is required by the FAA.

- iv. Applicants are encouraged to provide their Towers for use by other carriers at a reasonable fair market value. Additionally, where such co-location is unavailable, location of Antennas on preexisting Towers shall be considered by the applicant. An applicant shall be required to present an adequate report inventorying existing Towers within a reasonable distance of the proposed site and outlining opportunities for co-location with existing facilities and the use of other pre-existing structures as an alternative to a new construction, or, if no such existing facilities or pre-existing structures are viable, the reasons therefor.
- v. The applicant shall be required to submit a report demonstrating good faith efforts to secure co-location with existing Towers as well as documenting capacity for future co-location for the proposed Tower. Written requests and responses for co-location shall be provided.
- vi. The applicant must examine the feasibility of designing a proposed Telecommunications Tower to accommodate future demand for additional facilities. This requirement may be waived by the Planning Board, provided that the applicant demonstrates that