

Chapter 180

ZONING

GENERAL REFERENCES

- Building construction and fire prevention — See Ch. 92.**
- Flood damage prevention — See Ch. 105.**
- Junkyards — See Ch. 116.**
- Manufactured homes and trailers — See Ch. 125.**
- Subdivision of land — See Ch. 154.**
- Telecommunications towers — See Ch. 162.**

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ARTICLE I

General Provisions

§ 180-1. Purpose.

The purpose of this chapter is to exercise a Town's right to protect its citizens and their property by controlling the use of land under authority of the Town [Law and the Municipal Home Rule](#) Law of the State of New York, to broadly protect the public health, safety and general welfare and to carry out locally established goals and objectives in a democratic manner in accordance with the Town's Comprehensive Plan. Further purposes are to implement the Town of Athens Comprehensive Plan adopted in 2007 jointly with the Village of Athens, and any amendments to it, and to achieve the overriding goal to maintain and enhance the unique features of the community that make Athens a quality place to live and to maintain the rural, small town character of the community. This Chapter shall, therefore, be interpreted in accordance with the goals as described below, and the objectives and recommendations of the Comprehensive Plan.

- A. Foster a vital business environment consistent with the Comprehensive Plan.
- B. Protect natural resources, including but not limited to air, water and wildlife resources, scenic views, open spaces, and the Hudson River and its associated resources.
- C. Protect and enhance the natural beauty of the town and its rural landscape and character as described and defined in the Town and Village of Athens Comprehensive Plan.
- D. Foster a safe, efficient, and aesthetically pleasing transportation network for pedestrians and vehicular traffic.

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- E. Promote a mix of quality housing accessible to all ages and income levels.
- F. Preserve and enhance Athens' historic structures.
- G. Promote development of infrastructure consistent with the needs of residents and with the character of Athens.
- H. Preserve farmlands and working landscapes, and promote agriculture as a viable economic activity.
- I. To protect residences from nuisances, odors, noise, pollution, and other unsightly, obtrusive and offensive land uses and activities and to secure safety from fire, flood or other dangers.

§ 180-2. Word Usage.

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

- A. The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
- B. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- C. The word "shall" is mandatory. The word "may" is permissive.
- D. The word "used" or "occupied" includes the words "intended, designed or arranged to be used or occupied."
- E. The word "lot" includes the word "plot" or "parcel."
- F. Words or terms not specifically defined in this law shall have the same meaning assigned to such word or term as is commonly used in the English language. Such common usage shall be ascertained from the definitions and usage of such word or terms pursuant to the New York State Uniform Fire Prevention and Building Code or as provided in the Merriam-Webster's Collegiate Dictionary.

§ 180-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY APARTMENT – A second dwelling unit, either in, or added to, an existing single-family dwelling, or in a separate accessory structure on the same lot as the existing single-family dwelling, for use as a complete, independent living facility with provisions in the accessory apartment for cooking, eating, sanitation, and sleeping. Such an apartment is a secondary and subordinate use to the principal dwelling regardless of whether it is within the principal dwelling or in an accessory structure. A single-wide manufactured home shall be permitted as an accessory apartment with a special use permit.

ACCESSORY USE OR STRUCTURE — A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

ADULT ESTABLISHMENT — Any establishment as defined in § 180-66 of this chapter.

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AGRI-BUSINESS – Activities conducted on a farm operation and offered to the public, or to invited groups, for the sale of agricultural products, education, recreation or active involvement in the farm operation. An agri-business activity may be secondary to the primary farm operation use on a property. Agri-business activities may be conducted in an accessory building or structure. Agri-business activities include, but are not limited to on-farm bed and breakfasts, farm stay programs, u-pick operations, and pumpkin patches, feed mills, farm suppliers, and other agricultural processing facilities.

AGRICULTURE – This includes: the raising of crops, animals, or animal products, the selling of such products grown on premises, and any other commonly accepted agricultural operations, including incidental mechanical processing of products, including animals or crops raised for personal consumption or recreational purposes.

AGRICULTURAL DATA STATEMENT – an identification of farm operations within an agricultural district located within five hundred feet of the boundary of property upon which an action requiring municipal review and approval by the planning board, zoning board of appeals, or town board pursuant to article sixteen of the town law is proposed, as provided in section three hundred five-a of NYS Agriculture and Markets Law Article 25-aa.

AGRICULTURAL STRUCTURE: Any building or structure essential, integral, or customary to a farm operation, including but not limited to a barn, silo, storage building, roadside stand, equipment shed, or other structure used for agricultural purposes.

ATMOSPHERIC POLLUTION — Discharging from stacks, chimneys, exhausts, vents, ducts, openings, buildings, structures, premises, open fires, portable boilers, vehicles or processes of any source of any smoke, soot, fly ash, dust, cinders, dirt, noxious or obnoxious acids, fumes, oxides, gases, vapors, odors, toxic or radioactive substances, ~~waste, particulate, solid, liquid or gaseous matter or any other materials~~ in such place, manner or concentration as to cause injury, detriment, nuisance or annoyance to the public or to endanger the health, comfort, ~~repose,~~ safety or welfare of the public ~~or in such a manner as to cause or have a natural tendency to cause injury or damage to business or property.~~

AUTO BODY OR MAJOR REPAIR SHOP-- A building, or portion of a building, arranged, intended, or designed to be used for making repairs to motor vehicles on a fee or contract basis.

AUTO SERVICE STATION — Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such motor vehicles. A service station is not a sales, major repair or rental agency for autos, trucks or trailers.

AVERAGE LOT SIZE – The average size of all proposed lots together. Use of lot averaging allows for one or more lots in a subdivision to be undersized, providing the other lots in the same subdivision are oversized by an equal or greater area or permanent open space is created so that the average lot size meets the dimensions required in this local law. All lots must meet health department requirements for water and septic systems.

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BED AND BREAKFAST – An owner-occupied building used as a dwelling used for renting accommodations to transient, fee-paying guests, and providing not more than one (1) meal daily to guests only. Not more than ten (10) rooms may be let.

BUILDING — Any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind.

BUILDING, PRINCIPAL – A building in which is conducted the main or principal use of the lot.

CHANGE OF USE-- Any change in the use of either a building or land which is significantly different from the prior use of that building or land. This definition includes the change of use or occupancy of land, or buildings, structures, or other improvements on land, from either residential, commercial, or industrial, to one of the other uses. It also includes any change in the nature, substance or intensity of the same use including, but not limited to, changes in use which require the issuance of a Certification of Occupancy pursuant to the New York State Building and Fire Code, and substantial removal of existing vegetation.

~~CLUSTER~~CONSERVATION SUBDIVISION -- A subdivision approved pursuant to Town Law § 278 wherein the Planning Board modifies applicable dimension provisions of the zoning law for the purposes of enabling and encouraging preserving the natural and scenic qualities of open land. The allowable number of building lots or dwelling units allowed shall not exceed the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to the otherwise applicable minimum lot size and density requirements of the zoning law.

~~CONSERVATION SUBDIVISION: A residential subdivision where the dwelling units that would result on a given parcel under a conventional subdivision plan are allowed to be placed on the parcel in a flexible manner, not necessarily in a clustered manner, and where~~ Lot sizes, road frontages, and other bulk dimensions are allowed to be relaxed so that at least 50% of the land is left in its natural open space condition in perpetuity. Conservation development results in a flexibility of design and development to promote the most appropriate use of land, to facilitate the adequate and economical provisions of streets and utilities, and to preserve the natural and scenic qualities of open lands.

CONVENIENCE STORE: Any retail establishment offering for sale prepackaged food products, household items, newspapers, magazines, sandwiches, and other freshly prepared foods such as salads, or any combination thereof, for off-site consumption.

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~~DAY CARE CENTER: A private establishment enrolling four (4) or more children of all ages where tuition, fees, or other forms of compensation for the care of children is received, and which is licensed or approved to be used as a child care center and not located within a private residence.~~

Family Day-Care Home

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

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

DAY-CARE HOME, FAMILY: Any program or facility licensed by the State of New York Office of Children and Family Services and which has a program caring for children of any age for more than three hours per day per child in which child day care is provided in a private residence for three to six children. Refer to New York State Social Services Law § 390.

~~Group Family Day-Care Home~~DAY-CARE HOME, GROUP FAMILY: Any program or facility licensed by the State of New York Office of Children and Family Services; a program caring for children for more than three (3) hours per day per child in which child day care is provided in a private residence for seven (7) to ten (10) children of all ages, including not more than four (4) children under two (2) years of age or up to twelve (12) children where all of such children are over two (2) years of age. Refer to New York State Social Services Law § 390.

DENSITY (MINIMUM AREA PER FAMILY OR DWELLING UNIT) — This area is the total usable area of any parcel of land, lot or plot to be developed or subdivided which is devoted to residential use or residentially related uses such as parks, playgrounds, open space, schools or residential streets.

DWELLING, MULTIFAMILY — A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided in a designated zone.

DWELLING, SINGLE-FAMILY — A detached residential dwelling unit, other than a manufactured home, designed for and occupied by one family only.

DWELLING, TWO-FAMILY — A detached residential building containing two dwellings units, designed for occupancy by not more than two families.

DWELLING UNIT (DU) — One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease and physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking and sleeping facilities.

~~EATING OR DRINKING ESTABLISHMENT—~~

~~—, Sit-Down--~~ Any establishment including, but not limited to a restaurant, diner, café, luncheonette or small snack-bar at which food is sold for consumption to patrons seated within an

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enclosed building or on its premises. However, a snack bar or refreshment stand at a public or semi-public community pool, playground, park operated by the agency or group, or an approved vendor operating the recreational facilities for the convenience of the patrons of the facility, shall not be deemed to be a ~~restaurant~~sit down eating or drinking establishment.

EATING OR DRINKING ESTABLISHMENT, Drive-Through-- An establishment where food and/or beverages are sold in a form ready for consumption, where all or a significant portion of the consumption takes place, or is designed to take place outside the confines of the restaurant, and where customer ordering and pickup of food is available to take place from an automobile.

EDUCATIONAL FACILITY – A building or part thereof which is designed, constructed, or used for education, training, or instruction in any branch of knowledge and includes, but is not limited to elementary, parochial, private, secondary or vocational schools.

ESSENTIAL SERVICES — The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, traffic signals, hydrants, street signs and similar equipment and accessories in connection therewith, but not including buildings, unless specifically permitted by special permit, and reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.

FARM OPERATION: The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation or marketing of crops, livestock and livestock products as a commercial enterprise. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each. Farm operations also include horse boarding operation, organic and niche farms.

FAMILY — One or more persons occupying a dwelling unit as a single, nonprofit housekeeping unit, who are living together as a bona fide stable and committed living unit, being a traditional family unit or the functional equivalent thereof, exhibiting the generic character of a traditional family.

FLAG LOT – A large lot meeting minimum frontage requirements and where access to the public road is by a narrow private right-of-way or driveway.

FLOOD — A temporary increase in stream flow or stage that results in water inundating areas adjacent or near to the usual channel.

FLOOD, ONE-HUNDRED-YEAR — The highest level of flood that, on the average, is likely to occur once in every 100 years or that which has approximately a one-percent chance of occurring any year.

FLOOD-PRONE AREAS or FLOODPLAIN — The channel of a watercourse and its adjacent areas subject to inundation by the one-hundred-year flood.

FLOOR AREA — The sum of the gross horizontal area of the several floors of the building measured to the exterior of the outside walls of such building, excluding the basement.

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FLOOR AREA RATIO — The ratio of the aggregate floor area of a building, exclusive of basement areas used only for storage to the site area of the lot on which the building is located.

FRONT LOADED STREET – A street designed so that all homes are located on only one side to afford each residence maximum viewing of open space lands or other features. This contrasts to a double-loaded street where houses are placed on both sides.

FUELING STATION – Any building, land area, or other premises, or portion thereof, used primarily for the retail dispensing and sales of vehicular fuels and shall include an auto service station.

GROSS DENSITY – The allowable number of lots permitted on any given parcel of land calculated from the total parcel acreage without subtracting environmentally sensitive lands, as defined in Section 180-12(1)(a).

GROSS LEASABLE AREA — The total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines and upper floors, if any, expressed in square feet and measured from the center line of joint partitions and from outside wall faces.

HOME OCCUPATION—

LOW IMPACT HOME OCCUPATION: Any nonresidential use that is secondary and clearly subordinate to an existing residential use, conducted within a dwelling unit or an accessory structure by a permanent resident of that dwelling unit, which does not change the exterior residential character of the dwelling unit or vicinity, and where no non-resident employees enter the premises, and where no signage, or exterior storage of products or equipment are required.

HOME OCCUPATION, MAJOR HOME OCCUPATION: A business activity resulting in a product or service for financial gain, conducted wholly or partly in a dwelling unit or accessory structure which is clearly secondary to the use of the dwelling for living purposes and does not change the exterior residential character of the dwelling unit or vicinity or have any exterior evidence of such secondary use other than a sign. Such unit or accessory structure shall not employ more than three nonresidents, and shall allow customers, clients or sale representatives to enter the premises. ~~Site plan approval and a special use permit is required when there is any lighting, parking lot, signs, or other changes to the land or structure related to a major home occupation.~~ Examples of major home occupations include, but are not limited to medical offices, insurance sales offices, and hair salons.

HORSE BOARDING OPERATION-- A horse boarding operation provides care, housing, health, related services and training to animals kept on the premises or on other properties owned or leased by the farm operator. Riding and training activities that are directly related to and incidental to the boarding and raising of horses, including riding lessons for persons who own or have a long-term lease from the farm owner for the horse that is boarded at the farm and uses for such activities, are part of the farm operation. ~~Riding academies offering riding lessons to the public and to individuals that do not own or have a long-term lease for the horse that is boarded and used at the facility for such riding and operations whose primary function is horse racing~~ Riding stables are not considered a horse boarding operation.

HOTEL/MOTEL— A building or group of buildings, whether detached or in connected units, containing transient lodging facilities for the general public, and which may contain accessory

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facilities such as ~~restaurants~~sit down eating or drinking establishments, meeting rooms, retail business activities, and related activities primarily to accommodate the occupants, but open to the general public, including buildings designated as auto cabins, auto courts, motor lodges, tourist courts, and similar terms. A resort may contain hotel accommodations among other amenities.

~~HOUSING, MODERATELY PRICED: Dwelling units constructed for families whose annual income does not exceed eighty percent (80%) of the actual Greene County median income (not capped), with adjustments for household size, as defined and periodically updated by the United States Department of Housing and Urban Development, and the annual rental cost or mortgage cost of which does not exceed thirty percent (30%) of said income or, for homeowners, the annual cost of the sum of principal, interest, taxes and insurance (PITI) and common charges, as applicable, does not exceed thirty percent (30%) of said income.~~

~~HOUSING FOR THE ELDERLY: Dwelling units, within a townhouse or multifamily dwelling with maximum of two (2) bedrooms per dwelling unit, which are designed and intended for and whose occupancy is restricted to handicapped persons, single persons sixty (60) years of age or older or couples in which one (1) person is sixty (60) years of age or older.~~

KENNEL— A business establishment in which five (5) or more pets that are more than four (4) months of age including but not limited to dogs, cats, ~~or~~ other small animals ~~that~~ are kept for the primary purpose of sale or for the boarding, care or breeding for which a fee is charged or paid.

LIGHT INDUSTRIAL —

~~A facility which manufactures, designs, assembles, or processes a product for wholesale or retail sale, and does not employ over one hundred (100) people. The industry does not produce high volumes of polluting wastes, and is compatible with other uses in the district. Light industrial excludes most resource and energy intensive industries, with the exception of wood products industries. It excludes all industries with noxious air or water emissions and high noise or vibration levels.~~

A facility that conducts:

- A. Scientific research and development of materials, methods or products, including engineering and laboratory research.
- B. Administrative, wholesale and retail sales, educational and other related activities and facilities in conjunction with a permitted use.
- C. Light manufacturing, design, assembling, fabricating or packaging of products from previously finished goods, conducted within the enclosed walls of a building.
- D. Uses of lands, buildings, structures, or processes that are noxious, injurious or harmful to persons or property by reason of the production or emission of dust, smoke, refuse, odor, gas fumes, noise, radiation, vibrations or similar circumstances or conditions are expressly prohibited.

LOT — A parcel of land occupied or to be occupied by only one principal or main building and the accessory buildings or uses customarily incident to it.

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- A. A lot shall be of sufficient size to meet minimum zoning requirements for use, coverage and area and to provide such yards and other open spaces as are herein required.
- B. Such lot shall have frontage on an improved public street, or on an approved private street.

LOT MEASUREMENT

- A. Depth of a lot shall be the distance between the front and rear lines, measured in the general direction of its side lot lines.
- B. Width of a lot shall be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; provided, however, that the width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than 80% of the required lot width, except in the case of lots on the turning circle of a cul-de-sac, where the eighty-percent requirement shall not apply.

LOT OF RECORD — A lot or parcel of land which is part of a subdivision recorded in the office of the Greene County Clerk or a lot or parcel described by metes and bounds, the description of which has been so recorded.

MANUFACTURED HOME —A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term shall include any structure that meets all of the requirements of this subdivision except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code; and except that such term shall not include any self-propelled recreational vehicle.

~~MODERATELY PRICED DWELLING UNIT — Dwelling units inhabited by households whose annual income is within 80 percent to 120 percent of the Greene County median income, with adjustments for households size, as defined and periodically updated by the United States Department of Housing and Urban Development, and the annual rental cost does not exceed 30 percent of said income or, for homeowners, the annual cost of the sum of principal, interest, taxes and insurance (“PITI”) and common charges, as applicable, does not exceed 30 percent of said income.~~

NET DENSITY – The allowable number of lots permitted on any given parcel of land calculated by subtracting ~~unusable land from the total parcel acreage.~~ environmentally sensitive land from the total parcel acreage. Environmentally sensitive lands shall include acreage in steep slopes greater than 25%; open water including ponds, lakes, and streams; federal or state designated wetlands excluding the 100-foot buffer; and lands contained within a 100-year floodplain. This calculation results in the usable acreage left over for building. Density requirements of this law are then applied to the usable acreage of the parcel.

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NONCONFORMING USE – A use or activity that was lawful prior to the adoption, revision or amendment of the zoning law, but that fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

NONCOMFORMING LOT – A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the zoning law but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

NONCOMFORMING STRUCTURE – A structure or building, the size, dimensions, or location of which was lawful prior to the adoption, revisions, or amendment to the zoning law but that fails by reason of such adoptions, revision, or amendment to conform to the present requirements of the zoning district.

OFFICE, BUSINESS — Offices and related spaces for use as professional services as provided by medical practitioners, attorneys, architects, engineers, and similar professions.

PARKING SPACE, OFF-STREET — Consists of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.

- A. Required off-street parking areas for three or more automobiles shall have individual spaces marked and shall be so designed, maintained and regulated so that no parking or maneuvering incidental to parking shall be on any public street, walk or alley and so that any automobile may be parked and unparked without moving another.
- B. For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at 300 square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained in a manner appropriate to the circumstances of the case and in accordance with all ordinances and regulations of the Town.

PERSONAL SERVICE ESTABLISHMENT – Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel. Personal services usually include but are not limited to laundry, linen supply, diaper service, beauty shops, barbershops, shoe repair, funeral services, locker rental, and domestic services.

~~RIDING STABLE – An operation that offers riding lessons to the public and to individuals that do not own or have a long-term lease for the horse that is boarded and used at the facility for such riding.~~

RECREATIONAL USE—

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Recreation Facility: A place designed and equipped for the conduct of sports and leisure time activities.

Recreation, Indoor: The conducting of sporting activities undertaken entirely within a building, including team or individual sports and related health and exercise facilities. Video parlors, computer gaming facilities, movie theaters, and bars do not constitute indoor recreation facilities. However, an indoor recreation use may be accompanied by customary accessory uses, which may include ~~food-service facilities~~ [a sit down or drive-through eating or drinking establishment](#), meeting room or banquet facilities, the serving of alcoholic beverages, video or computer game facilities, video theater facilities, sales of sport or exercise-related equipment or clothing, and other customary accessory uses.

Recreation, Outdoor: Includes but is not limited to: golf, skiing, ball playing on ball fields, swimming, biking trails, hiking, and similar outdoor activities facilities on a commercial or fee basis.

Recreation, Passive: Activities that involve relatively inactive or less energetic activities such as walking, nature hikes, nature observation, sitting, picnicking, card games, chess, and similar table games.

RELIGIOUS FACILITY - A structure or place in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held.

RESORT -- Overnight accommodations, within a building or group of buildings, that incorporate indoor and/or outdoor recreational amenities into the overall design of the use. A resort may also include meeting and conference rooms, dining facilities, and other areas for social gatherings.

RETAIL SALES – A commercial activity characterized by the direct on-premise sale of goods and services to the ~~ultimate~~ [general public](#) consumer, including on-premise manufacturing, processing, servicing, and preparation customarily associated therewith of stock in trade such as are normally associated with department stores, food markets, and similar establishments.

[RIDING STABLE – An operation that offers riding lessons to the public and to individuals that do not own or have a long-term lease for the horse that is boarded and used at the facility for such riding.](#)

[SENIOR CITIZEN HOUSING – Housing designed for, and occupied, by at least one person 55 years of age or older per dwelling unit, and which has significant facilities and services specifically designed to meet the physical or social needs of older persons. Synonymous with ‘housing for elderly’.](#)

SIGN — Any device designed to inform or attract the attention of persons not on the premises on which the sign is located; provided, however, that the following shall not be included in the application of the regulations herein:

- A. Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants of premises or other identification of premises not having commercial connotations.
- B. Flags and insignia of any government, except when displayed in connection with commercial promotion.
- C. Legal notices and identification, informational or directional signs erected or required by

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governmental bodies.

- D. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
- E. Signs directing and guiding traffic and parking on private property but bearing no advertising matter.

SIGN, OFF-SITE DIRECTIONAL — A sign other than an on-site sign which is used to direct people to a place of business.

SIGN, ON-SITE — A sign relating in its subject matter to the premises on which it is located or to products, accommodations, services or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

SIGNS, NUMBER AND SURFACE AREA OF

- A. For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.
- B. The surface area of a sign shall be computed as including the entire area within regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.

SPECIAL USE PERMIT USE — ~~A — An authorization of a particular land use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, order, comfort, convenience, appearance, prosperity or general welfare. Such use may be is permitted in this zoning law, subject to requirements imposed by such zoning district as a special permit use if specific provision for such special permit use is made in this chapter and if it law to assure that the proposed use is in accordance harmony with the Comprehensive Plan zoning law and will not adversely affect the neighborhood if such requirements are met.~~

STEEP SLOPE – a slope of fifteen percent or greater ~~over any one hundred foot segment~~ prior to cut or fill ~~covering more than 10% of the total acreage of a parcel~~. A slope is a percentage determined by dividing vertical distance (rise) by horizontal distance (run). Steep slopes are areas of extreme gradient change that potentially pose as sources of excessive runoff and erosion if managed improperly.

STREAM CORRIDOR – Is comprised of the stream channel, the area within the one hundred year flood line and a minimum of 100 feet from the one hundred year flood line, extending outward from the stream channel, on both sides of the stream. If there is no one hundred year flood line delineated, the distance shall be measured outward from the top of the bank of the stream channel. The corridor width shall not exceed 300 feet.

STRUCTURE — Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings,

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manufactured homes, walls and fences but does not include signs.

TELECOMMUNICATION TOWERS – See Chapter 162 of the Town of Athens Code.

TOWNHOUSE – A ~~dwelling~~structure containing three (3) or more dwelling units attached to each other at the side or rear by means of a common wall or walls, each dwelling solely occupying the internal space from ground to roof, and having its own separate entrance or entrances from the outside.

TRAILER OR TRAVEL TRAILER — A portable structure built on a chassis and designed to be used as a temporary dwelling for travel and recreational purposes.

USABLE LAND – The buildable portion of a parcel not constrained by wetlands meeting the definition of either a state or federally designated wetland, floodplains, steep slopes or other environmental constraints.

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

VARIANCE — ~~A relaxation of the terms of this chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship.~~ For an area variance or use variance, these terms are defined as provided for in Town Law.

WATERSHED - a geographic area defined by topographic high points such that precipitation falling within the boundaries of the high points drains to a single outlet, such as a mouth of a stream, lake or river.

WIND ENERGY CONVERSION SYSTEM: A wind energy conversion system consisting of a wind turbine, a supporting structure and associated control or conversion electronics, which has a rated capacity of not more than 50 kW and which is intended only to reduce on-site consumption of utility power and are not used to generate utility scale electrical energy to be supplied to the local utility electrical grid.

WIND ENERGY SYSTEM HEIGHT: The height from original grade of the land to the highest point of any part of the wind energy system including the top of the blade when it is in the vertical position.

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YARD: Space on a lot not occupied with a building or structure. Porches, whether enclosed or unenclosed, and roof overhangs, shall be considered as part of the main building, and shall not project into a required yard.

Yard, Front: The space within and extending the full width of the lot from the road edge to a parallel line through the part of the principal building or accessory structure which is nearest to such road edge. If a lot adjoins two (2) or more roads or highways, it shall be deemed to have a front yard on each adjoining road or highway.

Yard, Rear: The space within and extending the full width of the lot, from the rear lot line to a parallel line through the part of the principal building or accessory structure which is nearest to such lot line.

Yard, Side: The space within the lot extending the full distance from the front yard to the rear yard and from the side lot line to a parallel line through the part of the principal building or accessory structure which is nearest to such side lot line.

ARTICLE II

District Regulations

§ 180-4. Zoning Districts.

A. The Zoning Map officially entitled "Athens Zoning Map" is hereby adopted as part of this chapter.¹

B. The Town of Athens Zoning Map shows a division of the Town into the following districts:

OS/ C	Open Space/Conservation
Ag	Agriculture
Rr	Recreation Residential
Ru	Rural Residential
Ru-1	Rural Residential 1
Ru-385	Rural Residential/Route 385 Corridor
MUC	Mixed Use Commercial
LI	Light Industrial
H	Hamlet
HLW	Hollister Lake Watershed Overlay
BLW	Black Lake Watershed Overlay
GLW	Green Lake Watershed Overlay

C. In addition to the general mapped districts, there is permitted the following district(s) formed by amendment to this chapter:

PUD	Planned Development District
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1. Editor's Note: A copy of the Zoning Map is included at the end of this chapter.

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§ 180-5. District Objectives.

- A. Open Space/Conservation District: This district is established to include waterways, lands subject to flooding, areas with excessive slopes, and other environmental sensitivities in order to protect those natural resources, prevent flooding, and reduce drainage and erosion problems through low density of development and other land use controls oriented towards environmental protection.
- B. Agriculture District: This district is established to include lands and soils with medium and high agricultural viability and to encourage a development pattern that keeps agricultural land in productive use, or ensure that it is available for future agricultural use consistent with the Town and Village of Athens Comprehensive Plan. Further purposes are to discourage land uses that are not compatible with agricultural uses, to preserve open space values of farmlands, to promote active agricultural land uses, to maintain the Town's farmland, to promote agriculture as a component of the local economy, and to maintain a critical mass of farmland so as to prevent further fragmentation of the Town's existing farms.
- C. Recreation Residential District: This district is intended to provide moderate to high density residential development in a manner that does not jeopardize either the town's inherent beauty or rural character. This district encompasses many seasonal and vacation homes around Sleepy Hollow Lake in addition to permanent residents.
- D. Rural Residential District: This district is established to allow for low density residential development consistent with a rural setting and on lands having poor soils, rugged terrain, and with access to only local roads.
- E. Rural Residential 1 District: This district is established to accommodate the many private homes that are situated on Route 9-W but allows for their possible conversion to commercial uses at a later date.
- F. Rural Residential/Route 385 Corridor: This district is established to provide for low density residential development along the Route 385 corridor sensitive to and reflective of Athen's desire to maintain this area as an attractive rural entrance to the Town and Village. Maintenance of a clear boundary between the Town and Village along the Route 385 corridor is recognized as contributing to the rural character of both municipalities. This corridor further emphasizes the importance of the Hudson River to the area's ecology and aesthetic character.
- G. Mixed Use Commercial District: This district is established to provide for commercial development in concentrated nodes along Route 9W. Land use controls for this district are designed to ensure that commercial growth is of scale and character consistent with the Town and Village of Athens Comprehensive Plan and to minimize traffic hazards.
- H. Light Industrial District: This district is established to provide for manufacturing and light industrial uses that are consistent with the Comprehensive Plan.
- I. Hamlet District: In addition to the general purpose to promote the health, safety and general welfare of the residents of the Town, the purpose of the Hamlet District is to foster development in the traditional locations of settlement in the Lyme Street and Leeds area and other locations where new development has a building scale, massing, layout and design that is consistent with the smaller lots of the hamlet areas.

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- J. Watershed Overlay Districts: The watershed overlay around Hollister Lake is established to protect water quality in the lake as it serves as the public water system for the Village of Athens. Watershed Overlay Districts for Green Lake and Black Lake are established to protect water quality in those lakes.

§ 180-6. Interpretation of District Boundaries.

District boundaries shown within the lines of roads, streams and transportation rights-of-way shall be deemed to follow the center lines. The ~~vacation~~abandonment of roads shall not affect the location of such district boundaries. When the Code Enforcement Officer cannot definitely determine the location of a district boundary by such center lines, by the scale or dimensions stated on the Zoning Map or by the fact that it clearly coincides with a property line, the Code Enforcement Officer shall refuse action, and the Zoning Board of Appeals, upon appeal, shall interpret the location of the district boundary with reference to the scale of the Zoning Map and the purposes set forth in all relevant provisions of this chapter.

§ 180-7. Official Zoning Map.

Regardless of the existence of other printed copies of the Zoning Map which from time to time may be made or published, the Official Zoning Map, which shall be located in the Town office, shall be the final authority as to the current zoning status of the land and water areas, buildings and other structures in the Town.

§ 180-8. Lots.

- A. Corner Lots. Lots which abut on more than one street shall provide the required front yards along every street.
- B. All structures, whether attached to the principal structure or not and whether open or enclosed, including porches, carports, balconies or platforms above normal grade level, shall not project into any minimum front, side or rear yard. The Planning Board is authorized to allow projection of porches into front setbacks of lots created as part of a major subdivision no more than five feet to prevent monotony and add visual interest to the development.
- C. Nonconforming Lots. In any district, notwithstanding limitations imposed by other provisions of this chapter, a single lot at the effective date of adoption of this chapter may be built upon subject to the following conditions:
- (1) Such a lot must be ~~in~~of single and separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lots fail to meet the requirements for area ~~or~~, width, or ~~both~~depth, that are generally applicable in the district, ~~provided.~~Provided however that front, rear and side yard dimensions and other requirements not involving area ~~or~~, width or depth of the lot shall conform to the regulations for the district in which the lot is located.
 - (2) If two or more lots or combinations of lots and portions of lots with continuous frontage are in single ownership at the time of the passage or amendment of this chapter and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the lands involved shall be considered to be an individual parcel for the purpose of this chapter ~~and no.~~ Provided further, that no portion of said parcel ~~shall~~may be used or sold which does not meet lot width and area requirements established by

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this chapter, nor ~~shall~~may any division of the parcel be made which leaves remaining any lot width or area below the requirements stated in this chapter without obtaining an area variance from the Zoning Board of Appeals. Should such an application be made, the Zoning Board of Appeals shall give all due deference possible to grant such an area variance.

- (3) Any nonconforming lot shall be considered buildable ~~only when~~if it meets ~~Greene County~~New York State Department of Health and other State requirements ~~or Town engineer requirements~~for water wells and septic systems.

~~D. Principal Buildings per Lot. Except in the case of special permits for non-residential uses, agriculture, or agricultural farm worker housing uses, not more than one principal building shall be located on a lot.~~

~~ED.~~ Adjustment of Front Yard Depth. Where a lot is divided by one or more zoning districts or municipal boundary lines, any building or land use established thereon shall comply with the regulations of the district in which such building or land use is located. All requirements of this chapter, including yards and other dimensional requirements, shall be met on property located within the Town of Athens.

~~FE.~~ Lot Frontage Exceptions:

- (1) Cul-de-sac – Use of cul-de-sacs are discouraged in the Town of Athens. Where the Planning Board finds that use of a cul-de-sac road is necessary, an exception to the lot frontage requirement may be granted for lots located within a cul-de-sac, where all lots shall have a minimum “Lot Frontage” of fifty feet, as measured along the Right-of-Way of such cul-de-sac.
- (2) Flag Lots – Exception to lot frontage requirements may be granted for lots designed as “flag lots” in the Ru district, provided that:
- In the opinion of the Planning Board, the character of the land precludes typical subdivision development, or a unique and desirable lot can be created;
 - The creation of a flag lot is not to circumvent typical subdivision with the internal street development and does not negatively impact continuing use of farmland;
 - The proposed lot has a minimum “Lot Frontage” of forty (40) feet, as measured along the right-of-way of the fronting highway, and shall be no less than twenty five (25) feet throughout the entire length leading to the buildable portion of the lot and there shall be 200’ at the building line;
 - The required setbacks can be met when measured from the point where the lot meets the required minimum lot width for that zoning district.

F. General Land Use Controls:

- (1) No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.
- (2) No building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area or to

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have narrower or smaller rear yards, front yards, side yards or inner or outer courts than is specified herein for the district in which such a building is located unless such structure or lot is part of an approved clustered or conservation subdivision.

- (3) No part of a yard or other open space about any building required for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building unless such open space is part of an approved clustered or conservation subdivision.

§ 180-9. Prohibited Uses.

Any use not listed in the Schedule of Uses (§180-10) shall be deemed prohibited.

§ 180-10. Schedule of Uses.

All permitted uses, and uses permitted as special uses are listed in Table 1.

§ 180-11. Change of Uses.

- A. Any change of a land use or existing structure to a use permitted by right without Site Plan review or a Special Use Permit as indicated in Table 1 shall not require approval from the Planning Board.

~~B. —~~

- B. For all other changes of use or land or of existing structures, site plan review and/or a special use permit shall be required as indicated in Table 1. Once a Special Permit has been granted, it shall run with the land and apply to the approved use.

1. A Special Use Permit shall be required when there is any change of use of land or existing structure from one that has not required a Special Use Permit or Site Plan Review to one that does require a Special Use Permit or Site Plan Review.

2. Any time an approved special use changes to a different use that also requires a special use permit, it shall also require the granting of a new special use permit and site plan approval.

3. Once a Special Use Permit has been granted, any change ~~of use or in~~ intensity of use of premises which will require a modification of existing means of access or egress, parking or loading facilities, drainage, utilities, landscaping, signage, screening or outdoor lighting, or of the exterior façade of a nonresidential or mixed use building in the hamlet, commercial, and Ru-T districts shall also require ~~a special use permit. Once a Special Permit has been granted, it shall run with the land and apply to the approved use, as well as to any subsequent use of the property in the same use category, provided that such use has no greater impact on adjoining properties, complies with all terms and conditions of the Special Permit, and does not involve enlargement, exterior alteration of existing structures, increased parking, lighting, signage, or other changed use of outdoor areas. Any change to another use that involves enlargement, exterior alteration of existing structures, increased parking, lighting, or other changed use of outdoor areas shall require the granting of a new Special Permit and Site Plan Review.~~ the granting of a new or amended special use permit.

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§ 180-12. Schedule of Density and Dimensions.

- A. Table 2 lists all required densities and dimensions.
- B. Calculating Density.
- (1) Ag, Ru-385, OS/~~C~~, Ru, and all Watershed Overlay District Net Acreage Calculation: In order to meet the goals of the Town and Village of Athens Comprehensive Plan and the purposes of this Chapter, ~~the Town of Athens shall adjust the allowable density permitted~~ in the Ag, OS/~~C~~, Ru-385, Ru, and watershed overlay districts density shall be determined by the net density method to account for environmental limitations that may be present on a parcel. For these districts, a net-density method of calculating development potential on a parcel shall be ~~required~~determined as follows:
- a. All acreage of land on a parcel in steep slopes, greater than 25%; as open water including ponds, lakes, and streams; as federal or state designated wetlands, excluding the 100-foot buffer, and on lands contained within a 100-Year Floodplain shall be deducted from the total acreage of the parcel.
 - b. The density requirements of Table 2 shall be applied to the resulting net density, or buildable portion of the parcel.
 - c. The adjusted net density calculated to be available after exclusion of the types of lands pursuant to Section (B) (1) above, is the total and maximum development potential for a particular parcel. All density calculations shall be rounded to the nearest whole number of dwelling units or principal buildings. Once this full development potential has been reached through subdivisions, no further density or subdivision activity shall be allowed.
- (2) MUC, LI, H, Rr, Ru1 Districts Gross Acreage Calculation: The density requirements of Table 2 shall be applied to the gross acreage of the parcel. This density of development is the total and maximum development potential for a particular parcel. Once this full development potential has been reached through subdivisions, no further density or subdivision activity shall be allowed.
- C. Average Lot Sizes: The Planning Board may utilize an average lot size requirement instead of using a minimum lot size requirement when such method will result in more protection of open spaces, environmental features, or aesthetic character than would normally occur using the dimensions of Table 2 for that district. Under no circumstances shall use of average lot sizes result in a greater density of development than allowed for that district as per Table 2.
- D. Monitoring Lot ~~Splits~~Subdivisions. In order to help ensure proper monitoring of ~~lot splits~~subdivisions over time, the following procedures shall be followed:
- (1) An official parcel map indicating existing lots, parcel numbers, and land ownership shall be established along with an official register containing this information.
 - (2) The Town shall maintain a record of the estimated allotment of lots and dwelling units possible under this law for each parcel under review.

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- (3) A property owner submitting a subdivision plan shall be required to specify on his/her plan and on any approved final plat, which lot or lots shall carry with them the right to erect or place any unused allocation of dwelling units the tract may have and which lands shall be reserved in perpetuity as open spaces.
- (4) As allotments are used up, the official parcel map and register shall be updated to reflect these changes.
- (5) The official parcel map and register shall be maintained by the Planning Board upon final approval of each subdivision and copies made available for inspection by the public.

§ 180-13. Modification of Density or Dimensions.

- A. Multi-family Dwellings. Multi-family dwellings shall require a special use permit and site plan review and shall meet requirements of Section 180-42. In no case shall the density exceed 46 dwelling units per acre ~~of buildable land~~ provided ~~Board~~New York State Department of Health requirements for waste water treatment systems and potable water are met.
- B. Clustering and Conservation Subdivision. The Planning Board is authorized to vary the lot sizes and setbacks set forth in Table 2 whenever a clustered or conservation subdivision is proposed, as per § 180-12 (C), or required as per Article VI of this chapter.
- C. Incentives and Density Bonuses.
 - (1) Purpose. Pursuant to §261-b of the New York State Town Law, the Town of Athens hereby establishes a program to encourage the preservation of open space and agricultural lands, and the provision of facilities and amenities that would benefit the Town by providing incentive(s) to applicants seeking approval of a subdivision or site plan. The Planning Board may grant zoning incentives that are in compliance with the Town and Village of Athens Comprehensive Plan and with the provisions of this section. As set forth below, the Planning Board has established standards for the proper application of incentive zoning and the specific findings that shall be made prior to approving an adjustment to the maximum unit density requirements of this Local Law.
 - (2) Applicability.
 - a. The incentives set forth herein shall be applicable to land parcels zoned for residential uses and for which an application has been filed for approval of a subdivision pursuant to the Town of Athens Subdivision Law or an application for approval of a site plan pursuant to this chapter as follows:
 - [1] Incentives may be granted for provision of public access or recreation, protection of open space, protection of agricultural lands, or protection of cultural, archaeological, historic or other unique natural resources.
 - b. Where an application seeks both subdivision and site plan approval, the project shall be considered in its entirety and incentives shall not be granted separately for both approvals.

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- c. Incentives shall be granted only when the community benefits or amenities offered would not otherwise be required or likely to result from the applicable planning process before the Planning Board.
 - d. Such benefits shall be in addition to any items that are or would be required under other provisions of this Local Law or State law, including any mitigation measures required pursuant to the State Environmental Quality Review Act.
- (3) Incentives.

Notwithstanding any contrary provision of Town or State law or this chapter that limits or restricts the maximum unit density of a proposed project or subdivision, an applicant may apply for an incentive adjustment to the maximum unit density requirements of this ~~Law~~Chapter in exchange for the following benefits. In no case shall the total approved incentives exceed a 30% aggregate increase to the maximum unit density for the proposed project. ~~For a permanent conservation of natural areas, open spaces, or agriculture, a bonus may be granted only for the permanent preservation of open space lands that exceed the mandated 50% requirement of clustered or conservation subdivision development. For every additional 10% of open space land permanently preserved, a 5% bonus may be approved.~~

- a. Permanent Conservation of Natural Areas, Open Spaces, or Agriculture. A bonus may be granted for the permanent preservation of open space lands when a subdivision is designed as a cluster or conservation subdivision pursuant to Article VI, up to a fifteen percent (15%) increase to the maximum unit density for the zoning district.
- b. Cultural, archaeological, historic facilities or other unique features deeded to municipality or qualified not-for-profit agencies. A bonus may be granted for the permanent preservation of a cultural, archaeological or historic resource or facility, up to a fifteen percent (15%) increase to the maximum unit density for the zoning district may be approved.
- c. Public Access or recreational. A bonus may be granted for the creation of public recreational lands or facilities open to the public, public access to streams, access to old railroad beds, access to other open space lands, the provision of fishing/hunting rights, or provision of trails and trail linkages, up to a fifteen percent (15%) increase to the maximum unit density for the zoning district may be approved.

- (4) Procedures and criteria for approval of incentives.

Pursuant to State Town Law 261-b (Incentive Zoning), the following procedures shall be followed for approval of any density bonus:

- a. Submission of application. Pursuant to applications for utilization of incentive zoning shall be submitted simultaneously to the Town Board and to the Planning Board. An applicant is encouraged to present its plans to the Town Board as early in the process as possible. The Town Board may schedule an informal workshop to discuss the incentive application and share information between the applicant, the Planning Board, the Town Board and the public.

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- b. Narrative statement. A narrative statement shall be submitted with the following information:
- [1] A description of the incentive being requested.
 - [2] A description of the community amenity or benefit being offered to the Town.
 - [3] A current estimate of the market value of the proposed benefit.
 - [4] A preliminary indication that there is adequate wastewater treatment, water supply, transportation facilities, waste disposal, and emergency service protection facilities in the zoning district in which the proposal is located to handle the additional demands of the incentive and amenity.
 - [5] An explanation as to how the amenity helps implement the physical, social or cultural policies of the Town of Athens Comprehensive Plan.
- c. Authorization of the utilization of incentive zoning to a specific property is subject to approval by the Town Board prior to the grant of preliminary plat or preliminary site plan approval by the Planning Board. Applicants may seek non-binding input from the Town Board as to whether the proposal is worthy of consideration prior to the application or at any stage of the application process prior to the formal report issued by the Planning Board pursuant to subsection below.
- d. Applications for incentive zoning shall be processed concurrently and with the same procedures applicable to subdivisions and/or special use/site plan approvals as set forth in this Zoning Law and the subdivision regulations of the Town of Athens.
- e. All applicable requirements of the State Environmental Quality Review Act shall be complied with as part of the review and hearing process before the Planning Board.
- f. Prior to granting approval of the preliminary plat or site plan based on an incentive proposal but after at least one public hearing has been held, the Planning Board shall issue a report regarding the incentive zoning to the Town Board. The Planning Board's report shall include the following:
- [1] The Planning Board's recommendations regarding the proposal, including an evaluation of the adequacy with which the benefit and incentives fit the site and how the development relates to adjacent uses and structures.
 - [2] a SEQRA Negative Declaration or Findings Statement establishing that the proposal will not have a significant impact on the environment;
 - [3] an assessment that adequate water supply, wastewater treatment, transportation, waste disposal and emergency protection facilities exists to serve the development, and that such development will not substantially and deleteriously impact upon the future development of adjoining properties;

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- [4] a statement that the benefit would not otherwise result without the granting of incentive zoning.
- g. Within 45 days of receipt of the Planning Board's report, the Town Board shall hold a public hearing on the incentive zoning application. Notice of the hearing shall be published in the official newspaper at least ten (10) days prior to the date of the hearing. The Town Board may provide for further notice as it deems appropriate.
 - h. Prior to rendering a decision, the Town Board shall evaluate the impact of the provision of such system of zoning incentives or bonuses upon the potential development of affordable housing gained by the provision of any such incentive or bonus afforded to an applicant or lost in the provision by an applicant of any community amenity to the town. Further, the Town Board shall determine that there is approximate equivalence between potential affordable housing lost or gained or that the town has or will take reasonable action to compensate for any negative impact upon the availability or potential development of affordable housing caused by the provisions of this section.
 - i. The Town Board shall render its decision within 45 days of the close of the public hearing. In no case, however, shall the Town Board be compelled to approve any aspect of this incentive zoning as such approval rests within the Town Board in its sole and absolute discretion. The Town Board may approve, approve with modifications or disapprove the incentive zoning application. Failure to render a determination within said 45-day period shall be deemed to be a denial. To approve incentive zoning, the Town Board shall determine that the community benefit provides sufficient public benefit to provide the requested incentive.
 - j. If the Town Board determines that a suitable community benefit or amenity is not immediately feasible, or otherwise not practical, the Board may require, in lieu thereof, a payment to the town of a sum to be determined by the Board. If cash is accepted in lieu of other community benefit or amenity, provision shall be made for such sum to be deposited in a trust fund to be used by the Town Board exclusively for specific community benefits authorized by the Town Board.
 - k. After the Town Board has rendered a decision, the record of decision shall be referred to the Planning Board for preliminary and/or final approval of the application with or without incentives, as prescribed by the Town Board. If the Town Board resolves to permit incentive zoning, no subsequent approval or permit or approval by any official, board or agency of the Town shall materially alter any condition imposed by the Town Board and, in the event that any permit or approval by any agency within or without the Town materially alters any such condition, the project may not proceed until and unless the Town Board approves the modification in its sole discretion.
 - l. The Town Board may engage a consultant to assist in review of the application, the cost of which will be borne by the applicant.

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- m. Compliance with SEQRA. All applicable requirements of the State Environmental Quality Review Act shall be complied with as part of the review and hearing process. If a generic environmental impact statement has been prepared by the Town Board in enacting or amending this section, the application will pay a proportionate share of the cost of preparing such impact statement.

§ 180-14. Nonconforming Uses.

The lawful use of any building or land existing at the time of the enactment or amendment of this chapter may be continued although such use does not conform to the provisions of this chapter. ~~See also Nonconforming Lots, §180-14(C), as follows:~~

AA. Nonconforming Structures.

1. Unsafe structures. Any structure or portion thereof declared unsafe by the Code Enforcement Officer may be restored to a safe condition.
- ~~B2.~~ Alterations. A nonconforming building may not be reconstructed or structurally altered during its life to an extent exceeding ~~in aggregate cost~~ 50% of the ~~assessed value~~ existing footprint of the building unless said building is changed to a conforming use.
- ~~C3.~~ Restoration. No building damaged by fire or other causes to the extent of more than 50% of its true value shall be repaired or rebuilt except in conformity with the regulations of this chapter.
4. Changes. Once changed to a conforming structure no building shall be permitted to revert to a nonconforming building.

B. Nonconforming Uses.

1. Extension. A nonconforming use shall not be expanded. Any such use may be extended throughout any parts of a building which were arranged or designed for such use at the time of the enactment or amendment of this chapter.
- ~~D2.~~ ~~Restoration. No building damaged by fire or other causes to the extent of more than 50% of its true value shall be repaired or rebuilt except in conformity with the regulations of this chapter.~~
- ~~E.~~ Discontinuance. Whenever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be reestablished, and any future use shall be in conformance with the provisions of this chapter.
- ~~F3.~~ Changes. Once changed to a conforming use no ~~building or land use~~ shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to a use permitted in the same district.
- ~~G4.~~ Displacement. No nonconforming use shall be extended to displace a conforming use.
- ~~H5.~~ Cessation. Notwithstanding any other provisions of this chapter, any nonconforming automobile wrecking yard, other junkyard or sign in existence at the date of

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enactment of this chapter shall, at the expiration of five years from such date, become a prohibited and unlawful use and shall be discontinued.

16. District changes. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein.

§ 180-15. Regulations Specific to Districts

A. Watershed Overlay Districts

- (1) Prohibited Uses and Activities in any Watershed Overlay District: The following uses and activities are specifically prohibited in the Watershed Overlay District in order to safeguard water resources:
- a. Any use or activity that involves the on-site disposal of solid waste, pathological or medical waste, petroleum, radioactive material, hazardous substances, hazardous waste, or process wastes, including aqueous-carried waste (except for sewage, animal manure and associated bedding material, and agricultural use of food processing wastes where the waste is applied at or below agronomic rates).
 - b. Surface land application of septage, sewage, sludge, or human excreta except where permitted by NYSDEC for agricultural use. Where such application is permitted, the landowner shall provide to the Town a copy of all correspondence between the landowner/applicant and the applicable federal, state or local regulatory agencies and a copy of all applicable federal, state and local permits.
 - c. Disposal of snow or sand containing deicing compounds that has been transported from off-site areas.
 - d. Stockpiling or storage for other than residential uses of coal, bulk chemicals, deicing compounds, hazardous substances, hazardous waste, except in structures designed to prevent contact with precipitation and constructed on low permeability pads.
 - e. Stockpiling or storage of fertilizers except in containers or structures designed to prevent contact with precipitation.
 - f. Storage of manure, except for the primary purpose of agricultural use.
 - g. Construction of municipal or industrial sewage treatment facilities with disposal of primary or secondary effluent.
 - h. Excavation of overburden and/or minerals from the earth for sale or exchange, or for commercial, industrial, or municipal use (except for the sale of incidental overburden and/or minerals from excavation related to construction as part of an agricultural or residential use).

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- i. Drilling of wells used for oil, gas, gas storage, solution mining, or brine disposal.
- (2) Maximum Site Coverage and Dimensions: Within any Watershed Overlay District, no more than fifteen percent (15%) of a single lot or building site may be rendered impervious to groundwater infiltration. Maximum site coverage calculations shall include impervious surfaces with area over one hundred (100) square feet. Maximum impervious site coverage may only exceed fifteen percent (15%) if the developer submits a Stormwater Management and Erosion Control Plan that specifies that the post-development stormwater recharge volume to ground water is, at a minimum, equal to the predevelopment recharge volume to ground water.
 - (3) Subdivision Approval in Watershed Overlay District: Within any Watershed Overlay District, all major subdivisions shall be designed as a clustered or conservation subdivision with a minimum of 50% of the parent parcel permanently preserved as open space as per Article VI provided adequate stormwater and sewage treatment exists.
 - (4) Site Plan Review Requirements:
 - a. Uses Requiring Site Plan Review. Any proposed use or activity wholly or partially within any Watershed Overlay District shall be required to have site plan approval prior to issuance of a building permit or certificate of occupancy except for: (1) initial construction or modification of a single or two family dwelling or related accessory structure; or (2) agricultural uses.
 - b. Site Plan Submittal Requirements. In addition to other information required for a site plan submittal, the following information shall be provided for a proposed use or activity located partially or wholly within any Watershed Overlay District:
 - [1] A location map of the proposed use or activity in relation to the Watershed Overlay District boundaries.
 - [2] A map and report detailing the proposed conveyance, storage, distribution, generation, use, and/or treatment of any process wastes, aqueous-carried wastes (except sewage), petroleum, hazardous substances, hazardous wastes, solid waste, radioactive material, and/or incidental wastes.
 - [3] A map and report detailing the proposed conveyance, storage, distribution, generation, use, treatment, and/or disposal of any stormwater and sewage. If applicable, a Stormwater Management and Erosion Control Plan shall be developed and submitted. The Stormwater Management and Erosion Control Plan shall provide for the removal of oil, gasoline, and other possible contaminants from runoff by the use of treatment swales, sediment traps, oil/gas separator, and/or other devices, prior to retention and percolation of the runoff. To the extent feasible, all runoff from impervious surfaces shall be recharged to ground water on-site. Recharge impoundments shall have vegetative cover for surface treatment and infiltration. Recharge shall be attained through site design that incorporates natural drainage patterns and

vegetation, and through use of stormwater infiltration basins, infiltration basins, infiltration trenches, porous pavement or similar systems. Any and all recharge areas shall be permanently maintained in full working order by the owner. Provisions for maintenance shall be described in the management plan.

- [4] A description of all pollution control measures and activities proposed to prevent on-site disposal and potential contamination of groundwater or surface water, including spill response activities.
 - [5] A statement as to the degree of threat to surface water quality that could result if the control measures failed.
 - [6] A description of the provisions for the off-site disposal of solid waste, petroleum, radioactive material, hazardous substances, hazardous waste, process wastes, and/or aqueous-carried waste (except sewage).
 - [7] A description of the proposed means of water supply, including if applicable an estimate of the total daily groundwater withdrawal rate.
 - [8] Copies of any permits and applications made to any other governmental agencies.
 - [9] Additional information or material that may be requested by the Planning Board in order to evaluate the site plan.
- c. Review and Approval Criteria: In addition to the requirements of Section 180-55, the following criteria shall be used by the Planning Board in reviewing applications for site plan review in the Watershed Overlay District and shall serve as minimum requirements for approval of the application pursuant to this section. The application shall not be approved unless the Planning Board determines that the applicant has met all of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.
- [1] The proposed use or activity must comply with the regulations and requirements set forth regarding the Watershed Overlay District.
 - [2] Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed roads, parking areas, roofs, and other surfaces, ground water is recharged to the maximum extent practicable on-site, and there are no adverse impacts on abutting or downstream properties.
 - [3] Filling, excavation and earth moving activity must be kept to a minimum. Natural vegetation must be preserved and protected wherever possible. Soil erosion and sedimentation of watercourses and water bodies must be minimized.

- [4] The proposed use or activity must be located or designed in such a manner that it will not adversely impact the quantity of groundwater available to public water supply wells or other wells.
 - [5] The proposed use or activity must be designed with adequate control measures to prevent the on-site disposal of solid waste, pathological or medical waste, petroleum, radioactive material, hazardous substances, hazardous waste, or process waste, including aqueous-carried waste (except sewage). The adequacy of the proposed control measures must be evaluated in terms of their simplicity, reliability, and feasibility, as well as the degree of threat to public water supply wells and other wells in the event that the control measures failed.
 - [6] All handling and storage of solid waste, pathological or medical waste, petroleum, pesticides, herbicides, radioactive material, hazardous substances, hazardous waste, or process wastes must meet the standards of the New York Department of Environmental Conservation, and/or all applicable state or federal agencies.
 - [7] The proposed use or activity must provide adequate provisions for the safe off-site disposal of solid waste, hazardous waste, process waste, and other wastes generated. All waste must be disposed of at a licensed disposal facility having adequate capacity to accept the users wastes.
 - [8] In the event of an unintentional on-site disposal (i.e. spill) of potential contaminants, the proposed use or activity must have adequate spill response and containment plans in place to minimize groundwater or surface water contamination.
- d. Modifications: The Planning Board may require changes or additions to the site plan as a condition of approval to safeguard groundwater resources. No building permit and no certificate of occupancy shall be issued unless and until such conditions have been fully met or performed. All improvements to the site shall be completed in strict conformance with the site plan as approved.
- B. Agricultural District (Ag)
- (1) General Policy: Consideration will be given to maintaining agricultural viability and protecting significant agricultural lands by minimizing adverse impacts on agricultural land remaining from a subdivision, prime and unique agricultural soils, adjoining or nearby agricultural land or operations, existing natural buffers, and agricultural infrastructure including but not limited to surface and subsurface agricultural drainage systems, farm equipment access points, and equipment lanes.
 - (2) Permitted Uses: In addition to all permitted and special permitted uses as per Table 1 of this law, additional uses permitted as of right in the Agricultural District include
 - a. Forest, wildlife and game management
 - b. Equestrian trails
 - c. Natural trails and walks
 - d. Greenhouses

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- e. Farm employee housing. Employee housing for farm workers is allowed. Such additional residential structures must be constructed in a manner that avoids to the maximum extent practical, building upon the best agricultural soils on the property.

(3) Dimension Requirements:

- a. Lot Coverage for non-farm uses in the AG. There shall be a maximum lot coverage of 25% and a maximum building coverage of 10% for all non-farm uses on the lot.
- b. There shall be no height limits on agricultural structures, including but not limited to barns, silos, grain bins, and fences, as well as equipment related to such structures, as long as they are being used in a manner that is part of the farm operation.
- c. Agricultural structures shall be exempt from maximum lot coverage requirements of Table 2.
- d. Agricultural structures shall meet all front, side and rear setbacks pursuant to Table 2.
- e. Agricultural structures and practices shall not require site plan review or special permit approvals but may require building permits.

(4) Context and Compatibility:

- a. Dwellings and residential lots shall be located on the least agriculturally productive land feasible (subsection (1), below) and shall avoid prime soils and soils of statewide significance, so as to minimize interference with agricultural production to the maximum extent practical. Permits shall be issued to enable dwelling units to be located on lots containing higher quality soils only where such other location is not feasible. The Planning Board is authorized to require use of a clustered subdivision to ensure protection of active agricultural lands or prime or important farmland soils.

[1] Land shall be considered of low quality for agricultural use if:

- (a) The land is in soil categories as classified by the USDA, NRCS and by the Soil Survey of Greene County, New York as being of low fertility and agricultural production value. Any applicant in disagreement with the classification of prime or statewide soils on their property may submit a professional analysis of the soils on the portion of the farm which seeks to be reclassified, and if the Planning Board finds this study to be accurate, it shall act in accordance with the results of such study; or
- (b) The land cannot feasibly be farmed; or
- (c) Due to the existing features of the site such as rocky conditions that prevent plowing, wetness, wetlands, or the fact that the slope of the area exceeds

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fifteen percent (15%), lack of accessibility for equipment to a field, or small size incompatible with agricultural practices.

- b. New non-farm structures shall not interfere with natural drainage patterns, surface or subsurface drainage systems, equipment lanes, or field access points.
 - c. New non-farm structures shall be sited so as to maintain the largest amount of contiguous acreage for agricultural use.
 - d. New non-farm structures shall be sited within woodlands or along the far edges of open agricultural fields adjacent to any woodland to reduce encroachment on agricultural soils and areas and to enable new construction to be visually absorbed by natural landscape features.
 - e. All non-farm development shall buffer itself from agricultural uses as per 180-25.
- (5) Review Criteria and Conditions:
- a. The Planning Board shall consider the following when reviewing any subdivision, site plan or special use permit application within the AG District:
 - [1] Statement of purpose of the AG District and compatibility of the proposal with meeting those purposes.
 - [2] Any potential for conflict with agricultural uses within the district.
 - [3] Compatibility of the project with existing or permitted uses on adjacent lands.
 - [4] The agricultural productivity of the lands or soils involved.
 - [5] The need to minimize the amount of agricultural soils converted to non-agricultural use.
 - [6] The availability of adequate soils for septic tanks and leach fields.
 - [7] The effect of the proposed use on water, air, or soil resources, and on rare or irreplaceable natural resources.
 - [8] The location of the structures on the parcel in relation to scenic resources and the ability of the project design to minimize interruption of scenic views from public roads.
 - [9] Hedgerows shall be preserved.
 - [10] New structures shall be placed to the edge of an open field to the maximum extent practical.
 - b. The following conditions may be attached by the Planning Board when granting a subdivision, site plan or special permit to minimize impacts and to meet the purposes of this district:
 - [1] Increased setbacks and yards.
 - [2] Additional landscaping and vegetative screens or buffers.
 - [3] Creation of easements for equipment access to adjacent farm fields.

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- (6) All subdivisions (~~greater than four units~~)parcels shall be designed in a clustered or conservation subdivision design and there shall be a minimum of 50% of the parent parcel permanently preserved as open space pursuant to Article VI of Chapter 180.
- a. Any subdivision that has 30 or more units shall be designed pursuant to Article VI of Chapter 180 (Clustered and Conservation Subdivisions) and the following design guidelines shall be met to create a hamlet with traditional neighborhoods:
- [1] A minimum of 75% of those units must be clustered and designed using traditional neighborhood/hamlet design guidelines and the remaining 25% of houses can be strategically placed on the parcel to preserve the greatest amount of open space.
- [2.] The following standards and principals shall guide development of a new traditional neighborhood hamlet:
- (a) The new hamlet shall provide for a variety of travel means, establish connected pedestrian and bicycle routes, promote safe and efficient mobility, and create links between residences, mixed uses, and surrounding open spaces.
- (b) Sidewalks and/or a trail system shall be provided for.
- (c) Streetscape and traffic calming shall be used to separate vehicular from pedestrian movement.
- (d) Streets shall be interconnected in a grid or modified grid street pattern with block lengths from 200 to 400 feet.
- (e) Streets shall be designed to meet the Town of Athens Highway Standards but shall also ensure that intersections are aligned, that long and uninterrupted segments of straight streets are created, and that streets are lined with trees.
- (f) Crosswalks, curb bulb-outs, signage, lighting, traffic lights, changes in pavement materials or color, curbs, and benches for public spaces shall be provided for.
- (g) Shared, rear-located parking lots and shared access to parking lots shall be used to the maximum extent practical.
- (h) Commons, squares, and pocket parks shall be created to be focal points of the hamlet. At least one common open square 10,000 to 60,000 square feet in size shall be located in a prominent location and framed with surrounding structures. Other small greens serving neighborhoods or small groups of houses shall be dispersed throughout the hamlet.
- (i) All lot sizes and dimension requirements of the Hamlet District shall be implemented.
- b. Any subdivision that has 29 or fewer units shall be required to be designed pursuant to Article VI of Chapter 180 (Clustered and Conservation Subdivisions) and the Planning Board may, at its discretion, require such subdivision to meet the following design guidelines to create a new rural hamlet:

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[1] A minimum of 75% of those units must be clustered and designed using rural hamlet design guidelines below and the remaining 25% of houses can be strategically placed on the parcel to preserve the greatest amount of open.

[2] All building design standards and guidelines pursuant to 180-~~3415~~ (B) (~~56~~)(a)(2), above, shall be required when a new rural hamlet is created. The following standards and design principals however, shall not be required in a rural hamlet:

(a) No curbs, crosswalks, curb bulb-outs, street lights, traffic lights, or changes in pavement materials or color shall be required.

(b) No commons shall be required, but smaller pocket parks are encouraged.

(c) A pedestrian trail or path linking residences and other parts of the hamlet are required, although 5-foot wide sidewalks shall be optional.

(7) All non-farm, non-residential uses approved pursuant to a special use permit, site plan approval, or subdivision approval shall preserve 50% of the parent parcel as permanently preserved open space. Such open space shall be protected from further development by a deed restriction.

(8) Required Disclosure. As required by state law, in the case of any proposed residential development that abuts agricultural uses, the Planning Board shall require the applicant to issue a disclosure to potential purchasers of lots or dwelling units as follows: "This property adjoins land used for agricultural purposes. Farmers have the right to apply approved chemical and organic fertilizers, pesticides, and herbicides, and to engage in farm practices which may generate dust, odor, smoke, noise and vibration." This disclosure shall be required as a note on a subdivision plat or Site Plan, and may also be required to be made through other means reasonably calculated to inform a prospective purchaser, such as by posting, distribution of handbills, inclusion in an offering plan or real estate listing information sheet, or letter of notification. This section may also be applied to any commercial development at the discretion of the Planning Board.

(9) Agricultural Data Statement. As required by state law, any application for a Special Permit, Site Plan approval, use variance, or subdivision approval requiring municipal review and approval by the Town Board, Planning Board, or Zoning Board of Appeals that would occur on property within an agricultural district containing a farm operation, or on property with boundaries within five hundred feet of a farm operation located in an agricultural district, shall include an agricultural data statement as defined in 180-3. The reviewing board shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within the agricultural district.

C. Rural Residential (Ru) and Open Space (~~OS~~) Districts:

(1) Commercial structures shall be limited to a maximum of 12,000 s.f building footprint.

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- (2) Trademarked architectural styles that identify a specific company by building feature(s) are prohibited.
- (3) Clustered or Conservation Subdivisions Guidelines.
 - a. The Planning Board is authorized to require adherence to the regulations of Article VI (Clustered and Conservation Subdivision) for subdivision applications in the Ru District where, in the opinion of the Planning Board during SEQRA review, the purposes of this Local Law cannot be met using conventional subdivision methods. The following conditions may warrant requirement of a clustered or conservation subdivision layout:
 - [1] State and/or federal freshwater wetlands occupy 25% or more of the site.
 - [2] Slopes of greater than 15% occupy 25% or more of the site.
 - [3] Open water.
 - [4] The site contains a Flood Plain or Flood hazard area as mapped by the Federal Emergency Management Agency's Flood Insurance Maps.
 - [5] The site contains a Critical Environmental Area.
 - [6] The site contains identified scenic views or scenic vistas as shown in the Town and Village of Athens Comprehensive Plan, other planning documents, or identified as important to the Town by others or the Planning Board.
 - [7] The lot or parcel contains an identified critical habitat or a known endangered species
 - b. When a clustered or conservation subdivision is designed, regardless of the number of units, there shall be a minimum of 50% of the parent parcel permanently preserved as open space, as per Article VI.
- (4) Rural Siting Principles
 - a. Siting of all structures shall, to the maximum extent practicable, avoid placement on lands within the parcel that have been identified as having steep slopes > 15%, within 100 feet of stream banks, within 100 feet of any state or federal wetland, or within the 100 year floodplain. Additionally, structures shall, to the maximum extent practicable, avoid being placed on lands defined by the Greene County Soil Survey as being Prime Farmlands, or Soils of Statewide Importance. Siting should also take into consideration and plan for wetlands wildlife that also need adjacent upland habitats.
 - b. Applicability. The following guidelines shall apply to the siting of uses that are subject to Site Plan or Special Permit approval, or in the case where clustering/conservation subdivision design is required. They are recommended but not required for the siting of individual residences on existing or newly subdivided lots.
 - [1] Wherever feasible, retain and reuse existing old farm roads and lanes rather than constructing new roads or driveways. This minimizes clearing and disruption of the landscape and takes advantage of the attractive way that old

lanes are often lined with trees and stone walls. (This is not appropriate where reuse of a road would require widening in a manner that destroys trees or stone walls.)

- [2] Preserve stone walls and hedgerows. These traditional landscape features define outdoor areas in a natural way and create corridors useful for wildlife. Using these features as property lines is often appropriate, as long as setback requirements do not result in constructing buildings in the middle of fields.
- [3] Avoid placing buildings in the middle of open fields. Place them either at the edges of fields or in wooded areas. Septic systems and leach fields may be located in fields, however.
- [4] Use existing vegetation and topography to buffer and screen new buildings if possible. Group buildings in clusters or tuck them behind tree lines or knolls rather than spreading them out across the landscape in a "sprawl" pattern.
- [5] Minimize clearing of vegetation at the edge of the road, clearing only as much as is necessary to create a driveway entrance with adequate sight distance. Use curves in the driveway to increase the screening of buildings.
- [6] All building rooflines to the maximum extent practical shall be sited a minimum of ten (10) feet below the ridgeline, screened, or buffered with landscape design so that they do not protrude above treetops and crest lines of hills as seen from public places and roads so that structures in these locations remain consistent with the topography and harmonious with the terrain. Place the structure so that the roofline does not protrude above the ridgeline. Use vegetation as a backdrop to reduce the prominence of the structure. Wherever possible, open up views by selective cutting of small trees and pruning lower branches of large trees, rather than by clearing large areas or removing mature trees. Existing vegetation within ridgeline areas shall be preserved to the maximum extent practical. Structures should blend in with natural surroundings through preferred use of natural or earth-tone colors. All outdoor light sources mounted on poles or buildings or trees to illuminate driveways, sidewalks, walkways, parking lots, or other outdoor areas shall use fully shielded light fixtures. All electric, telephone, television, and other communication lines, both main and service connections, servicing new development, shall be provided by underground wiring within easements of dedicated public rights-of-way, installed in accordance with the prevailing standards and practices of the utility or other companies providing such services. Cut and fills shall be minimized, and where practical, driveways screened from public view.
- [7] Minimize crossing of steep slopes with roads and driveways. When building on slopes, take advantage of the topography by building multi-level structures with entrances on more than one level (e.g., walk-out basements, garages under buildings), rather than grading the entire site flat. Use the flattest portions of the site for subsurface sewage disposal systems and parking areas.

[8] Place utility lines and driveways on less productive land. Site driveways on the edge of farm fields rather than through the middle to the maximum extent practical. Use shared driveways to limit the number of roadways that bisect farm fields.

[9] Locate new development so that the flow of water to farm properties is not impeded and in ways that is compatible with existing field drainage patterns.

(5) During project design, the Planning Board shall require incorporation of low impact development standards wherever feasible. Appropriate engineering should include use of one or more of the following low impact development techniques:

- a. Bioretention / Rain Garden
- b. Soil Amendments
- c. Grassed Swale
- d. Use of Rain Barrels
- e. Permeable Pavers
- f. Minimizing Imperviousness to Water

D. Mixed Use Commercial (MUC)

- (1) All structures shall be integrated with each other and with adjacent structures.
- (2) Structures that are visible from public roads shall be compatible with each other and with traditional structures in the surrounding area in architecture, design, massing, materials and placement, and shall harmonize with traditional elements in the architectural fabric of the area.
- (3) Trademarked architectural styles that identify a specific company by building features are prohibited.

a) Exterior materials and architectural elements for commercial structures.

[1] Roofs. Roof overhangs and pitched roofs shall be incorporated into all building designs. Wood shingles, slate shingles, multilayered asphalt shingles, metal (raised seam, galvanized metal, corrugated metal, metal tile, etc.) or tiles are permitted. Partial (less than three sides) mansard roofs, flat roofs (including a minimum pitch of 4:12) without a pediment, and long, unarticulated roofs are not permitted.

- [2] Sides of buildings and structures. Wood clapboard, wood board and batten, wood shingle siding, brick, stucco, tabby, natural stone, faced concrete block and artificial siding materials which resemble painted wood clapboard are permitted. Wood siding may be painted, stained, weathered, or left natural. Long, unarticulated, blank facades are not permitted. Plywood, cinder block, unfinished poured concrete, unfaced concrete block, plastic or vinyl, not closely resembling painted wood clapboard, and metal buildings without exterior skin are not permitted. Highly reflective mirrored glass or materials as the predominant material or visible texture are not recommended.
- [3] Accessory uses. The design of accessory buildings and structures shall reflect and coordinate with the general style of architecture inherent in the primary structure for the proposed development. Covered porches, canopies, awnings, trellises, gazebos, street/pedestrian furniture and open wood fences are encouraged.
- [4] Exterior display of merchandise shall not impede pedestrian safety or limit vehicular site distances. All merchandise that is displayed outside shall be moved inside after hours.
- (4) Context and Compatibility. These standards and guidelines establish an expectation that new development is similar in context and compatible with existing development. Context and compatibility with respected neighborhood buildings can be judged by the following major points of comparison:
- a. Roof shapes, slopes and cornices are consistent with the prevalent types in the areas.
 - b. Rhythm of building spacing along the street and overall scale are not interrupted.
 - c. Proportions for facades and window openings are in harmony with each other.
 - d. Materials, textures, and colors are similar.
 - e. Site details (porches, entrances, signs, landscaping, lighting, screened parking and mechanical systems) complement traditional examples in the area
- (5) Building Placement.
- a. Buildings shall be designed so that entrance doors and windows, rather than blank walls, garages, side walls or storage areas, face the street. Blank walls for commercial applications are discouraged but may be allowed at the discretion of the Planning Board under certain circumstances, such as when the structure is along an alley or when facing another blank wall.
 - b. The front façade of the building should be parallel to the main street. The architectural features, materials, and the articulation of a facade of a building shall be continued on all sides visible from a public street.

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- c. Parking shall be to the side or rear of a building. No parking area shall be located in the front yard setback between a principal building and any public street. If necessary due to specific site conditions, one row of parking may be placed between the principal building and the public street only if topography or a year round vegetative buffer of sufficient density to substantially limit the view of the parking lot screens the parking lot.
- d. Build-to line. Buildings shall define the streetscape through the use of setbacks along the build-to-line for each block. The function of the build-to line is to form a distinct street edge and define the border between the public space of the street and the private space of the individual lot. ~~The build-to line shall fall between the minimum and maximum front yard setbacks.~~ In areas of existing development where the location of existing buildings fall within is greater than the minimum ~~and maximum~~ front yard ~~setbacks~~ setback, the build-to line shall be designed to create the greatest uniformity on the block. In areas of existing development where existing buildings ~~do not fall within~~ are set beyond the minimum ~~and maximum~~ front yard ~~setbacks~~ setback, the build-to line shall be designed as the ~~closest line within the minimum and maximum~~ average front yard ~~setbacks~~ setback so as to create as much uniformity on the block as possible. A minimum of 80% of all buildings on the block shall conform to the build-to-line with the remaining 20% allowed to vary by being further setback no greater than 75% of the distance from the right-of-way to the build-to-line. Buildings shall be allowed to come forward of the build-to line by no greater than 25% of the distance between the right-of-way and the build-to-line.
- e. Buildings and other facilities shall be designed, located, and operated to avoid causing excessive noise.

(6) Windows

- a. The spacing, pattern and detailing of windows and window openings shall be reviewed by the Planning Board during Site Plan Review and determined to be compatible with adjacent buildings including historic buildings in the Town where possible.
- b. The relationship of the width of windows to the height of windows in a building shall be visually compatible with adjacent buildings.
- c. Blank end walls that are visible from the road or adjacent residences shall be landscaped.
- d. Transformers, gas meters, dumpsters, and other utility or service structures shall be screened.
- e. A landscaped area may be required to screen and protect neighboring residential properties and passing motorists from the view of facilities, buildings, and parking areas of the site development, as warranted.

(7) Sidewalks and Street Trees

- a. Shade trees shall be provided along each side of all streets, public or private, existing or proposed, and at the expense of the owner of the development. In locations where healthy and mature shade trees currently exist, these should be maintained and the requirements for new trees may be waived or modified. A mixed selection of shade trees shall be located in the planting strip between the street curb and the sidewalk where sidewalks are present. When a new street has a sidewalk on only one side, the shade tree shall be planted at the same distance from the street edge or curb on both sides of the street.
 - b. Street trees shall be irrigated and fertilized by the applicant for a minimum of two years after installation. Within two years of planting any tree that dies, or any tree that is removed shall be replaced.
- (8) Parking, circulation and loading. In addition to all other district parking requirements, the following shall be met:
- a. Cross-access easements for adjacent properties with interconnected parking lots shall be required, in language acceptable to the Town Attorney.
 - b. Reduction of impervious surfaces through the use of interlocking pavers is strongly encouraged for areas that serve low-impact parking needs.
- (9) Lighting
- a. Exterior lighting fixtures shall be shielded to prevent light from shining directly onto neighboring properties or public ways pursuant to Dark Skies Initiatives.
 - b. Any lighting fixture used to illuminate parking areas, access drives or loading areas shall be of such design, so as to minimize the amount of ambient lighting perceptible from adjacent properties. In no case, shall any lighting impair the vision of motorists on the roadway.
 - c. All interior lighting shall be designed to prevent high levels of light from being visible from the roadway.
 - d. A site lighting plan shall be submitted as part of the site plan application submission.
 - e. Fixtures shall be mounted in such a manner that the cone of light is not directed at any property line of the site.
 - f. Only incandescent, fluorescent, metal halide, LED's or color corrected high pressure sodium light may be used. All lighting must be compatible with all other light systems used for all fixtures and light sources on the site. This shall not cover seasonal or holiday lighting.
 - g. Only white or off-white (light yellow tones) may be used for any light source.

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- h. Lighting poles mounted within 50 feet of the highway right-of-way may not exceed a height of 20 feet. The minimum mounting height for a pole shall be 12 feet.

E. Hamlet District (H)

(1) Building Design Standards and Guidelines for Hamlet District.

- a. General. The hamlet district is compact and buildings are relatively close together. These guidelines are intended to encourage development that reinforces and follows that existing pattern. The intent of the following design standards is to ensure that hamlet areas can accommodate new housing and small businesses without destroying their essential character. It is not the intent of this section to discourage contemporary architectural expression but rather to preserve the integrity and authenticity of the district and to ensure the compatibility of new structures. The standards established in this section are for the purpose of promoting quality development that is attractive, convenient and compatible with surrounding uses and historic buildings in the Town. These standards are intended to be general in nature and not to restrict creativity, variety or innovation. During project development and review, attention should be given to the compatibility of adjoining developments when reviewing project proposals.

- b. Building Placement.

[1] All requirements of Section 180-14 (D)(3)(a)(5) shall be met.

[2] Detached garages to the rear of buildings are encouraged. Attached garages should have doors set 10' or more behind the street face unless the doors face the side.

- c. Building Scale.

[1] In order to be consistent with the scale of buildings in traditional hamlets, no single building shall have a building footprint exceeding 6,000 square feet. Exceptions may be made only if the facades of larger buildings are articulated to appear as multiple buildings, each with a maximum building footprint of 6,000 square feet. Other design features such as porches or cupolas, window bays, separate entrances and entry treatments, or the use of sections that may project or be recessed may also be used.

- d. Accessory Equipment.

[1] All roof, wall or ground mounted mechanical equipment such as heating and air conditioning units, exhaust fans, etc. shall be confined within the principal structure or within an area enclosed by a well, screen, fence, berm or hedge of sufficient height and density to screen the equipment year round from view

from adjacent streets, properties and parking lots. Window mounted units are acceptable and do not need screening.

[2] All dumpsters or other trash containers shall be fully enclosed by a fence and screened by appropriate landscaping. No dumpster or port-a-potty shall be located in front of a building and the preferred location is to the rear of the building.

e. Streets and Street Trees

[1] To maintain sight lines, trees and other objects should be restricted from corners for distances of 30 feet on sides where motorists would look right and 15 feet on sides where they look left.

[2] Existing street trees should be preserved whenever possible. Dead trees that are within 20 feet of the pavement should be replaced with new trees. If no existing street trees are present, deciduous, broad-leaved trees with a minimum of 3" caliper trunk shall be planted at minimum 30' intervals along the road frontage and shall be compatible with and maintained to prevent interference with any utility lines. Street trees can be planted within the first 10 feet of the front yard, or in the area between the street and sidewalk (should a sidewalk exist). In developments where there are no existing trees, the Planning Board may require the developer to show trees at their planted size as well as normal rendering sizes to indicate the visual character of the development prior to maturation of trees.

[3] Shade trees shall be provided along each side of all streets, public or private, existing or proposed, and at the expense of the owner of the subdivision. In locations where healthy and mature shade trees currently exist, these should be maintained and the requirements for new trees may be waived or modified.

~~[4] Street trees shall be irrigated and fertilized for a minimum of two years after installation.~~ [4] Any tree that dies within two years of planting, or any tree that is removed shall be replaced.

f. Lot size diversity. A variety of lot sizes should be provided to eliminate the appearance of a standardized subdivision and to facilitate housing diversity and choice that meets the projected requirements of people with different housing needs. Lot areas and lot widths shall vary at random to the greatest extent possible, in order to eliminate the appearance of a standards subdivision. To the extent possible, no more than two lots in a row shall have the same width. Lots shall vary by a minimum of five foot increments.

g. In major subdivisions, building mass, design, and floor plans shall be such to create significant visual differences between structures, and new building shall be consistent with the traditional character of Athens. Monotony and similarity shall be

minimized through use of changes in façade planes, use of porches, changes in location of entry way, varying the width of the unit, and varying roof orientation, roof styles, building orientation, and trim detailing.

- h. Reduction of impervious surfaces through the use of interlocking pavers is strongly encouraged for areas that serve low-impact parking needs.
- i. Newly installed utility service systems, and service revisions necessitated by exterior alterations, shall be installed underground. When feasible, existing aboveground utility service systems shall be placed underground.
- j. Duplex and multi-family structures shall be designed to look like a single family structure to the maximum extent possible.
- k. Conversion of a residential structure to a commercial use allowed shall be permitted only provided the residential nature and character of the façade is maintained.

F. Light Industrial District:

- (1) The minimum lot area shall be 2 acres and the lot shall maintain no less than 50 feet of frontage on a state road.
- (2) Sales to the general public of locally manufactured or assembled products or of ancillary products shall be permitted but shall not be the primary activity conducted on such premise.
- (3) All uses, processes and storage shall be within a fully enclosed structure, or reasonably screened from view. The façade of buildings and structures shall be compatible with the rural character and adjacent development and the site shall be fully landscaped.
- (4) One free standing business identification sign shall be permitted, and the sign face shall not exceed 24 square feet in area. No more than two sign faces are permitted. The Planning Board may approve a directly illuminated sign.
- (5) The applicant shall submit a list of the goods and materials to be stored and manufactured on the property. The Planning Board shall consider the nature of the materials, including potential flammable/hazardous nature of same, and may impose reasonable restrictions on the storage of said materials, or prohibit same.
- (6) Parking shall not be permitted in the front yard, unless the topography of the parcel dictates otherwise, and such site plan is approved by the Planning Board.
- (7) The location and hours of operation of all on-site lighting shall be approved by the Planning Board. Public address systems are prohibited.

(8) The Planning Board may require a wall, fence, landscaping or other buffer be installed where a property adjoins a residential use. Said buffer shall be no less than twenty (20) feet in width.

(9) No lands within the Light Industrial Zone shall be used for wetland mitigation purposes.

G. Rural Residential/ Route 385 Corridor District:

(1) Buildings shall be situated in a manner that avoids the following:

- a. slopes 25% and greater;
- b. areas within 100 feet of a stream or river bank, state or federal wetland;
- c. the 100 year flood plain.

(2) The Planning Board shall consider the following standards during the review of any site plan, special use permit or subdivision application in this district:

- a. Minimize vegetative clearing and earthwork.
- b. Preserve stone walls and hedgerows as they are integral to the vernacular rural landscape and are used by wildlife as habitat and travel corridors. Use stone walls and hedgerows to define property lines where appropriate.
- c. Place buildings at the edge of fields and wooded areas and not conspicuously in the middle of an open field visible from Route 385 and encourage front yard setbacks so that the road maintains its rural country feel.
- d. Use existing vegetation and topography to buffer and screen new buildings. Group buildings in clusters and situate them behind tree lines or knolls. Avoid siting buildings across the landscape in a "sprawl" pattern.
- e. Retain existing vegetation at the street edge. Limit cuts and fills associated with driveway or street construction. Screen driveways from public view, and limit clearing except in areas where adequate sight distance must be maintained. Site driveways and roads should be situated at the edge of open fields. Encourage shared use of driveways and use of front-loaded streets. Use curves in a driveway to increase the screening of buildings.
- f. To the maximum extent possible, site buildings no less than ten (10) feet below any ridgeline so that they do not protrude above treetops and crest lines of hills as viewed from a public place, Route 385, or from the Hudson River. Rooflines should not protrude above the ridgeline. Existing vegetation atop a ridge line shall be preserved to the maximum extent possible.
- g. Limit clearing to selective cutting of small trees and shrubs and pruning lower branches of large trees. Do not clear extensive areas or remove mature trees on any property.
- h. Use earth-tone colors so that buildings blend with the natural surrounds.

- i. Fully shield exterior light fixtures, whether mounted on poles or buildings or trees, that are used to illuminate driveways, sidewalks, walkways, parking lots, or other outdoor areas.
- j. Install all utilities underground, including electric, telephone, television, and other communication lines, whether main or service connections. Locate and install utilities in a manner that minimizes additional on-site clearing or disturbance.
- k. Avoid crossing steep slopes with a road or driveway. Encourage terrain adaptive design, e.g., constructing a multi-level building with access on more than one level (e.g., walk-out basements, garages under buildings), rather than grading the entire site flat.

§ 180-16 through 18. Reserved

ARTICLE III

General Standards

§ 180-19. Applicability.

The following provisions shall apply to all districts except where listed.

§ 180-20. Off-street Parking.

- A. Off-street parking requirements for non-residential uses shall be established by the Planning Board based upon need of the proposed use. With due consideration with the table below, the Planning Board shall have the authority to deviate parking space requirements on a case by case basis based on need so as to prevent over-building of parking lots. Since businesses vary widely in their need for off-street parking, it is most appropriate to establish parking requirements based on the specific operational characteristics of the proposed uses.
- B. In determining the parking requirements for any proposed use, the Planning Board shall consider:
- (1) The maximum number of persons who would be driving to the use as employees, customers, clients, members, students or other uses at times of peak usage. Parking spaces shall be sufficient to satisfy 85% of the anticipated peak demand.
 - (2) The size of the structure(s) and site.
 - (3) The environmental, scenic or historic sensitivity of the site. In cases where sufficient area for parking cannot be created on the site without disturbance to these resources, the Planning Board may require a reduction in the size of the structure so that available parking will be sufficient.
 - (4) The availability of safely usable on-street parking.
 - (5) The availability of any off-street parking within 500 feet that is open to the public, owned or controlled by the applicant, or available on a shared use basis.
 - (6) Standards used in generally accepted traffic engineering and planning manuals shall be referred to; however, such standards shall be used as a guide only and should be viewed as likely to require excessive numbers of parking spaces.
- C. Guidelines for the minimum number of off-street parking spaces to be provided are as follows:

Public off-street parking in lieu of on-site parking may be utilized to fulfill parking requirements when provided for this purpose.

Use	Parking Spaces Required
Lodging house	1 for each lodging unit

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Residential	2 per dwelling unit
Church and school	1 per 3 seats in principal assembly room
Private club or lodge	1 per 4 members
Theater	1 per 3 seats
Hospital and nursing or convalescent home	1 per 3 beds and 1 for each employee based on the expected average employee occupancy
Professional office, business service and medical clinic	1 for each 250 square feet of gross leasable area
Retail business and personal service establishment	1 for every 180 square feet of gross leasable area
Eating and drinking establishment	1 for every 3 seats
Industrial	1 for each 1.2 employees, based on the highest expected average employee occupancy
Funeral home	1 for each 75 square feet of floor space in slumber rooms, parlors and individual service rooms

- D. Use of shared parking lots is encouraged, and may be required by the Planning Board for two or more adjacent commercial uses.
- E. Adequate parking for handicapped persons shall be provided in accordance with applicable laws.
- F. Parking areas shall be located to the side or rear of the structure where ever possible. If this is not feasible due to lot configuration or topography, parking areas shall be located in such a way as to minimize visibility from roadways and adjacent properties. Landscaping shall minimize any negative visual effect.
- G. Landscaped islands shall be integrated into parking areas to visually break up large expanses of paving and provide shading. Landscaping shall not block sight lines and plantings at parking facility entrances and exits shall be limited to ensure clear sight distances. Clear sight lines from doors and windows must also be protected. Lighting fixtures should be consistent with the character and style of the Town.
- H. Berms and dense landscaping shall to the extent practicable, be used to screen all parking lots and parking areas from all public roads, paths and private streets. Factors such as the size of the parking area, direction and elevation from which it can be viewed, the viewer's position, the season and the distance of the lot from the view must be considered when determining the type, height, width and density of the plant materials to be used. Existing vegetation may be incorporated into the parking lot landscape plan.
- I. To reduce the amount of impervious surfaces, to encourage groundwater recharge, and reduce water runoff velocities, the Planning Board may require use of pervious surface lot treatments.

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§ 180-21. Off-street Loading.

Off-street loading which is spaced logically, conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled shall be provided for all commercial and industrial uses. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

§ 180-22. Lot Coverage.

In all residential districts, structures may not cover more than 30% of the lot. In planned development projects, although individual lots may exceed this requirement, the overall project may not. Lot coverage shall meet requirements for all other districts as per Table 2.

§ 180-23. Height Regulations.

Except for silos, wind energy conversion system or other private wind generation systems used to support farming, and other agricultural structures, in all districts structures shall not exceed at the height of 35 feet above ground level.~~restrictions contained in Table 2: Density and Dimensions.~~ The Zoning Board of Appeals may grant a special permit for a structure in excess of ~~35 feet~~such height restrictions, provided that it is not more than 10% of the roof area of the principal building and is used for one of the following purposes: television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers and scenery lofts, silos, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smokestacks and flagpoles.

§ 180-24. Environmental Performance Standards.

A. Waste controls are to be in accordance with Chapter 145, Sewage Disposal, and as follows. The following materials shall not be discharged into any storm or sanitary waste way in excess of the concentration specified in each case. In no case will any of these or similar materials be discharged in any drainage channel.

- (1) Oils, tars, cleaning compounds or inflammables.
- (2) Phenole or phenole-like compounds in excess of 0.05 parts per 100,000.
- (3) Toxic materials, such as fruit-washing compounds, wood preservatives, insecticides, aldrin, rotenone, BHC, DDP and all other similar products, weed killer, metallic or nonmetallic products of metal processing or plating acids, alkalis, cyanides, copper, etc.
- (4) Total salts, maximum 25,000 parts per 1,000,000.
- (5) Salts or elements injurious to crops, soils or animals, aluminum boron, arsenic, selenium, lead manganese, etc.
- (6) Wastes with pH less than 6.5 or greater than 8.5.
- (7) Floating solids.

B. Air pollution and fire controls.

- (1) It shall be unlawful within the Town of Athens for any person, owner, agent, operator, firm or corporation to permit or cause, suffer or allow the discharge, emission or release

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into the atmosphere from any source whatsoever of soot, fly ash, dust, cinders, dirt, oxides, gases, vapors, odors, toxic or radioactive substances, waste, particles, solid, liquid or gaseous matter or any other materials in such place, manner or concentration as to constitute atmospheric pollution. This section shall not apply to farming uses.

- (2) Odor. Tanneries, stockyards, glue factories, oil refineries, soap factories, artificial gas manufacture, rubber manufacture, fertilizer manufacture and other manufacturing or industrial uses must present detailed plans for elimination of obnoxious odors to the Planning Board for approval during site plan review before the Code Enforcement Officer may grant a permit.
- (3) Noxious gases. Detailed plans of any process likely to emit noxious gases, indicating elimination of such gases or fumes, must be presented to the Planning Board for approval during site plan review before the Code Enforcement Officer may grant a permit.
- (4) Fire and safety hazards. Only buildings which are in conformity with the New York State Uniform Fire Prevention and Building Code are permitted.

C. Noise and Vibrations.

- (1) No activity shall cause or create a steady-state or impact vibration displacement at such parcel's property line by frequency bands in excess of that indicated in the following table:

Frequency (cycles per second)	Vibration Displacement Steady-State (inches)	Impact (inches)
Under 10	0.0005	0.0010
10 -- 19	.0004	.0008
20 -- 29	.0003	.0006
30 -- 39	.0002	.0004
40 and over	.0001	.0002

- (2) The addition of any noise source, in a nonindustrial setting, should not raise the ambient noise level above a maximum of 65dB(A). Ambient noise in industrial or commercial areas may exceed 65 dB(A) with a high end of approximately 79 dB(A). When project ambient noise levels exceed the existing ambient noise levels, the Planning Board may require mitigative measures utilizing best management practices to ensure that a facility's generated sound levels are at a minimum.

D. Lighting and Glare. The Planning Board shall take into consideration the need to minimize nighttime lighting to protect dark skies. Adequate lighting shall be provided on a site to ensure safe movement of persons and vehicles and for security purposes, unless waived by the Planning Board. A lighting plan shall be included in site plan review application materials and shall include a layout of proposed fixture locations, and a description of the equipment, glare control devices, lamps, mounting heights, hours of operations and maintenance methods proposed. Lighting shall conform to the following standards:

- (1) All lighting, including sign lighting, shall be designed and arranged so as to minimize glare and reflection on adjacent properties.

- (2) The style of the light and light standard should be consistent with architectural style of the building and surrounding area. Poles and fixtures shall compliment the architectural character of the development and surrounding area.
- (3) The maximum height of freestanding lights shall not exceed twenty (20) feet.
- (4) The source of the lights shall be fully shielded with full 90 degree cut-off luminaries or located such that it shall not be visible outside the boundaries of the parcel being developed.
- (5) All exterior site lighting shall have such shading as will prevent the source of the light from being a visual nuisance to any adjacent residential property. Hours of lighting may be limited by the Planning Board in acting on any site development plan.
- (6) Externally illuminated signs including building identification signs shall only use shielded light fixtures.
- (7) The Planning Board may, as it deems appropriate, require that lighting be controlled by automatic timing devices to extinguish offending sources during specified periods to mitigate glare. The Planning Board may also require that lighting, except for security lighting, be extinguished after hours for businesses that are not in operation during that time. Motion detectors can be considered for security lighting.
- (8) Glare control shall be accomplished primarily through the proper selection and application of lighting equipment. Only after those means have been exhausted shall vegetation, fences and similar screening methods be considered acceptable for reducing glare.
- (9) Quartz lamps are prohibited light sources.
- (10) Luminance and uniformity. Light levels shall be designed not to exceed the latest recommended levels for outdoor lighting set by the Illuminating Engineering Society of North America (IES) for the type of activity/area being lighted, except light levels for ATM machines shall be in accordance with the New York State ATM Safety Act. Where no standard is available from the IES, the applicable standard shall be determined taking into account the levels for the closest IES activity.

§ 180-25. Agricultural Buffers.

Buffers adjacent to actively farmed land shall be established to reduce the exposure of non-farm uses to odors, noise, and other potential nuisances associated with the agricultural operation and to protect the agricultural operation from potential complaints related to same. Such buffers may consist of vegetative screening, woodlands, vegetated berms, or natural topographic features and shall be no less than 50 feet in width. Buffers may be required to be larger depending upon the type of agriculture or farm use adjacent to the non-farm use, the topography and the proposed design and planting of such buffer. It shall be the responsibility of the non-farm applicant, subject to approval by the Planning Board, to provide an effective buffer that will reasonably protect adjacent non-farm and residential living areas from agricultural procedures.

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§ 180-26. Keeping of Animals.

- A. The keeping of animals on residential properties in the Watershed Overlays, H, MU-C, and Ru 1, not part of a farm operation shall be limited as follows to prevent water contamination from animal manure. This shall not apply to horse stables.

Animal Type	Minimum Lot Size
Livestock including but not limited to horses, mules, goats, pigs, sheep, and cattle	1 animal per one-acre to a maximum of 10 animals
Fowl and Game birds	10 birds per one-acre lot to a maximum of 25 animals
Small animals such as rabbits	20 per acre

- B. Buildings, pens, or other structures housing animals shall be located 20 feet from any lot line and 35 feet from any road or highway. No manure may be stored within 50 feet of any property boundary line or 100 feet from any watercourse.
- C. All buildings and structures used to store feed or other materials used for the domestic livestock use shall be located a minimum of 35 feet from all property lines. A minimum of 100 feet shall be provided between any area or structure used for the storage of animal wastes and wetlands, and waterways.
- D. All livestock shall be fenced.
- E. No animal shall have direct access to a jurisdictional wetland, impoundment, stream, spring or well on the lot on which the livestock is located unless permitted by DEC or the Department of Health.

§ 180-27. Accessory Buildings or Structures.

On a lot devoted to a permitted principal use, customary accessory uses and structures are authorized.

- A. Accessory uses shall be compatible with the principal use and shall not be established prior to the establishment of a principal use, except as permitted hereafter.
- B. Any accessory building or structure hereafter constructed, erected, placed, structurally altered or enlarged, except as otherwise permitted in this chapter, shall be subject to the following bulk requirements:
- (1) No accessory building or structure shall be permitted within the required front yards, as set forth in each district.
 - (2) All accessory buildings or structures shall meet all side and rear setbacks.
 - (3) No accessory building or structure in any district shall exceed one and one-half stories or twenty-one (21) feet in height (whichever is less).

- (4) No mobile home or other portable structure or building shall be used as an accessory building or structure except when used incidentally to and temporarily for construction operations of a principal use. Said buildings shall be removed prior to the occupancy of the principal use. Storage buildings not exceeding one hundred forty-four (144) square feet in area are permitted.
- (5) Any accessory building which is attached to a principal building shall be considered as a part of the principal building and shall be subject to all regulations governing the location of principal buildings.

§ 180-28. Flood Prevention.

All requirements of Chapter 105 of the Town of Athens Code shall be met. Except for agricultural structures, new structures should not be constructed in designated 100-year floodplains.

§ 180-29. Traffic Access and Control.

- A. The Planning Board or the Zoning Board of Appeals, as the case may be, may require cross-access easements for adjacent properties with interconnected parking lots in language acceptable to the Town Attorney.
- B. Motor vehicle circulation shall be designed to minimize conflicts with pedestrians.
- C. Traffic calming features such as curb extensions, medians, road narrowings, surface textures, and modified intersections with narrowed intersection radii may be used to encourage slower traffic speeds.
- D. Streetscape and traffic calming shall be used to separate vehicular from pedestrian movement.
- E. Shared, rear or side-located parking lots and shared access to parking lots shall be used to the maximum extent practical.
- F. Curbing may be required along frontage to delineate access points.
- G. Maximum grade of access drives shall be eight percent (8%), and three percent (3%) for parking areas.
- H. Stacking lanes shall be required for all uses that involve drive-up customer services such as bank window tellers, fast food restaurants, car wash bays, etc., to avoid any stacking of vehicles in public right-of-ways.
- I. Unless otherwise required by the Town Highway Superintendent, New York State Department of Transportation or any other entity having permitting authority over the road or street fronting the parcel, no more than two curb cuts shall be allowed on any given parcel.
- J. The Planning Board may require front-loaded roads during a site plan or subdivision in order to promote rural character.

§ 180-30. Streams and Wetlands.

No alteration of watercourses, whether by excavation, filling, grading, clearing, draining, or otherwise, shall be made that affects the water levels or flow of such watercourses without review as to the effect of such alteration and any related facilities on water recharge areas, water table levels, water pollution, aquatic animal and plant life, temperature change, drainage, flooding, runoff and erosion. This review and approval of such alteration shall be made by the Planning Board in consultation with the Greene County Soil and Water Conservation District and the NYS Department of Environmental Conservation. Where the applicant must obtain a stream disturbance or discharge permit from the NYS Department of Environmental Conservation, Planning Board approval shall be conditional on the Department of Environmental Conservation's permit approval. There shall be a 100' setback of all site disturbances from Department of Environmental Conservation classified streams C(T) and higher and 50' from non-regulated watercourses.

§ 180-31. ~~Moderately Priced Housing Reserved.~~

~~A. Purpose. The purpose of this section is to ensure that new residential development in the Town includes a reasonable supply of moderately priced housing to meet the needs of the community's citizens. This section sets forth standards for moderately priced housing to be provided in conjunction with residential subdivisions of land.~~

~~B. Applicability. This section shall apply to all proposed major residential subdivisions of land and all multi-family residential development in all residential zoning districts. This section shall not apply to any major residential subdivision which has received preliminary subdivision approval by the Town of Athens Planning Board as of the effective date of this local law.~~

~~C. Provision of moderately priced units.~~

~~(1) At least 10% of the units in any major residential subdivision of land shall be established as moderately priced housing units in any one or combination of methods provided for below:~~

~~a. Construction of moderately priced housing units on the site of the proposed subdivision of land; or~~

~~b. Construction or creation of moderately priced housing units off the site of the proposed subdivision of land but within the geographic boundaries of the Town of Athens. Proposals for off-site moderately priced housing units shall be subject to approval by the Planning Board; or~~

~~(2) When a proposed residential subdivision contains 20% or more moderately priced housing units, the Planning Board may:~~

~~a. Waive requirements of this section;~~

~~b. Consider such other forms of assistance which may be under the control of the Town; and~~

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~~c.—Actively assist in obtaining assistance of federal, state or other agencies in support of moderately priced housing development.~~

~~(3)—At least 10% of the units of any multifamily residential development in any residential zoning district where multifamily residential development is allowed shall be established as moderately priced housing units. Calculations resulting in 0.5 dwellings or more shall be rounded up to the next whole dwelling unit;~~

~~D.—Provisions applicable to moderately priced housing units on and off site.~~

~~(1)—Siting of moderately priced units. All moderately priced units constructed under this section shall be integrated with the rest of the development and shall be compatible in design, appearance, and construction with other units.~~

~~(2)—Minimum design and construction standards for moderately priced unit. Moderately priced housing units within market rate developments shall be integrated with the rest of the development and shall be compatible in design, appearance, construction and quality of materials with other units.~~

~~(3)—Timing of construction or provision of moderately priced units or lots. The construction of moderately priced units shall occur proportionately with the construction of the market rate units in the subdivision. No building permit may be issued for the last 10% of market rate units within a subdivision until the last moderately priced unit has been issued a building permit.~~

~~(4)—At the discretion of the Planning Board and upon a showing of good cause, moderately priced housing requirements may be waived or modified when major subdivisions or multi-family developments are designed for handicapped, infirmed or seniors when such housing is independent living, congregate care, or nursing homes.~~

~~E.—Administration:~~

~~(1)—All affordable units, whether on-site or off-site, shall be identified by tax parcel identification number and indicated on the approved plat as an affordable unit, whether an on-site or off-site unit. At the time of building permit application, the applicant shall show such plat and parcel identification numbers to the Building Inspector.~~

§ 180-32. Development on Steep Slopes.

- A. Requirements of this section shall apply to all activities resulting in a site disturbance, development, or redevelopment, greater than or equal to 750 square feet gross disturbance. The Planning Board shall ensure that these standards are met prior to approval of any subdivision or site plan. The Code Enforcement Officer shall ensure that these standards are met prior to approval for any building permit.
- B. Any parcel that falls in whole or in part on a parcel containing more than 10% of total acreage in slopes 15% or greater shall be considered to contain steep slopes. Such slopes shall be

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determined from topographic maps containing contour lines submitted by the applicant.

- C. Site disturbances for the purpose of non-commercial home gardening and agricultural operations shall be exempt. Quarries, gravel pits, sand pits and shale pits shall be exempt when permitted and regulated under other local, state or federal laws.
- D. No development, grading of the land or stripping of vegetation shall be permitted on slopes of 25% or greater.
- E. Any proposed disturbance for roadway crossings or utility construction in areas of 25% slopes or steeper shall require a variance approval from the ZBA and must demonstrate, via analysis of alternatives, that the roadway or utility improvements are necessary in the sloped area and affect the sloped area to the minimum extent possible.
- F. The maximum area of disturbance allowed in slope areas on a parcel having between 20.0% and 24.9% slopes shall be 5%. The maximum disturbance area allowed in slope areas between 15% and 19.9% shall be 15%.
- G. Site design and grading on slopes greater than 15% shall provide the minimum disruption of view corridors and scenic vistas and shall preserve significant natural topographic features including ridgelines, to the extent that any portion of the ridgeline is within the regulated steep slope area.
- H. No driveway, vehicular access lane, or private road may be constructed that exceeds 10% slope for more than 5% of its total length.
- I. Development in steep slope areas requires the minimum lot size for that district plus any additional acreage that may be needed to comply with proper engineering requirements.

§ 180-33. Erosion and Sedimentation Control

- A. Prior to approval for any land disturbance of one acre or more, there shall be verification of compliance with the requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities General Permit (GP) 02-01 or as amended or revised.
- B. The ~~Town of Athens~~ Planning Board shall refer the Stormwater Pollution Prevention Plan (SWPPP) to a qualified engineering consultant and/or to the County Soil and Water Conservation District for professional advice concerning compliance of the plan. The Town of Athens shall not approve the Special Use Permit, Site Plan or Subdivision Application unless it finds that the Stormwater Pollution Prevention Plan (SWPPP) complies with this section.

§ 180-34. Reserved.

§ 180-35. Temporary structures.

Temporary structures used in conjunction with construction work shall be permitted only during the period that the construction work is in progress. Permits for temporary structures shall be issued for a six-month period. Residing in basement or foundation structures before the completion of the total structure shall be permitted for no more than one year.

§ 180-36. Signs.

Signs as defined in § 180-3 are specifically prohibited except as herein provided.

- A. All signs must be constructed of durable materials and shall be maintained in good condition and repair at all times.
- B. In any residential district a sign not exceeding ~~two~~four square feet in surface is permitted which announces the name, address or professional or home occupation of the occupant of the premises on which said sign is located.
- C. A bulletin board not exceeding 24 square feet is permitted in connection with any religious facility, church, school or similar public structure.
- D. A temporary real estate or construction sign, not exceeding 24 square feet, is permitted on the property being sold, leased or developed. Such sign shall be removed promptly when it has fulfilled its function.
- E. A business sign shall be permitted in connection with any legal business or industry located on the same premises and shall meet the following requirements:
 - (1) A maximum of two (2) signs are permitted with any legally established business, one freestanding and the other attached to the building. Only one freestanding sign, which may be double-faced, shall be permitted for the primary frontage of a property on a public street. Not more than one freestanding sign shall be permitted for each business structure regardless of the number of stores or businesses housed therein. Where more than one business is located on the same property or on contiguous or adjoining lots, one common freestanding sign directory shall be permitted. The combining of signs on one common sign directory shall be encouraged. In the event of contiguous businesses sharing a freestanding directory sign, each individual business shall be allowed one sign attached to the building. Where multiple businesses exist on one lot, the total cumulative area of *all* signs permitted on such lot shall be 60 square feet.
 - (2) The primary purpose of the sign shall be for identification and not for advertising, and it may state only the owner, trade names, trademarks, products sold and/or the business or activity conducted on the premises on which the sign is located.
 - (3) Signs attached to a building shall be perpendicular or parallel to the building facade.
 - (4) Signs shall not extend beyond the roof or parapet of the building. A freestanding sign shall not exceed 50 square feet. The maximum height for freestanding signs shall be fifteen (15) feet. All signs should be erected a minimum of fifteen (15) feet from any roadway edge.

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- (5) Externally lighted signs are required. Illuminated signs shall be shielded in such a way as to produce no glare, undue distraction, confusion or hazard to the surrounding area or to vehicular traffic. (6) Signs which are animated or with intermittent illumination are prohibited.
 - (6) Signs shall not project over public rights-of-way or property lines.
 - (7) The maximum area of a building-mounted sign shall not exceed ten percent (10%) of the building face area or 25 square feet, whichever is smaller.
- F. An off-site directional signal may be approved by special permit in any district, provided that:
- (1) A group of business owners or managers has cooperative to erect one or a series of off-site directional signs.
 - (2) Written permission from the lot owner is received.
 - (3) Externally lighted signs are preferred. Illuminated signs shall be shielded in such a way as to produce no glare, undue distraction, confusion or hazard to the surrounding area or to vehicular traffic. Illumination shall be properly focused upon or from within the sign itself.
 - (4) Signs which are animated or with intermittent illumination are prohibited.
 - (5) Signs shall not project over public rights-of-way or property lines.
 - (6) The sign shall be no more than 12 square feet.
 - (7) The Zoning Board of Appeals finds the sign not contrary to the objectives of the zoning district or the Comprehensive Plan.
- G. Any sign not in use shall be removed within 6 months after cessation of business.
- H. No advertising billboards shall be allowed on-site for an off-site purpose.
- I. No temporary, movable signs, except for holiday seasons, grand openings, and other special events, not to exceed sixty (60) days, shall be allowed.

J. This section shall not apply to non-commercial signs that express speech that is protect by the New York State or United States Constitution. For such signs, they shall be limited to one sign per parcel. Such sign shall be no larger than 8' x 8' in dimensions.

§ 180-37. Home Occupations.

Any home occupation, including, but not limited to businesses such as an art studio, dressmaking, teaching or the professional office of a physician, dentist, lawyer, engineer, architect or accountant, shall be permitted as an accessory use if it complies with the requirements of this section. Low impact home occupations do not require site plan approval or a special use permit. ~~Major home occupations shall require a special use permit, and site plan approval shall also be required if any lighting, parking lot construction, placement of signs or other changes to the land or structure is proposed to occur.~~

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- A. Home occupations must be incidental to the use of the dwelling unit ~~for residential purposes. The residential property where a home occupation is to occur must be owner-occupied.~~ The home occupation shall be carried on by a member of the family residing in the dwelling unit only.
- B. The home occupation shall be carried on wholly within the principal or accessory structures. No more than thirty percent (30%) of the total floor area (heated, habitable space) of the dwelling unit may be used for home occupation purposes.
- C. Exterior displays or signs other than those permitted under this sub-section, exterior storage of materials and exterior indication of the home occupation or variation from the residential character of the principal structure shall not be permitted. One unanimated, non-illuminated sign of not more than four (4) square feet shall be allowed for major home occupations. There shall be no other exterior evidence of the home occupation such as for display or storage purposes or such that the exterior of the work area is altered in any way.
- D. Objectionable ~~circumstances~~conditions, such as noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare, shall not be produced.
- E. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in the neighborhood.
- F. Parking shall be provided off street and shall not be located in front yards except for the first three cars. Adequate parking must be demonstrated. At a minimum, there shall be two (2) spaces for the residential use, plus one space for each five hundred (500) square feet of floor space of the home occupation. Parking areas of six (6) cars or more shall have crushed stoned, blacktop or other appropriate surface and shall be appropriately landscaped to provide screening from adjacent properties. Off-street parking and loading shall accommodate access and egress of any supply or service vehicles to the home occupation without obstructing traffic.
- G. Business operation hours, lighting and signage, should be set so as not to adversely affect adjacent uses.
- H. There shall be no outside storage of equipment, supplies and/or commercial vehicles related to the permitted home occupation.
- I. The proposed customary home occupation and the parking and traffic incident thereto:
 - (1) Will not create or aggravate hazards or dangers to the public or to persons in the vicinity.
 - (2) Will not be incongruous or detrimental to the prevailing residential character of the neighborhood.
 - (3) Will not impair the use, enjoyment or value of adjacent residential properties.
 - (4) Will not detract from the appearance of the area.

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- J. In addition, in granting any such permit, the Planning Board or Zoning Board of Appeals may impose reasonable conditions consistent with preserving the character of the neighborhood and the public health, safety, morals and general welfare of the community and make findings appropriate to the conditions imposed. Among the limitations which may be imposed are:
- (1) A limit on the hours of operation and on the number of visitors permitted per hour.
 - (2) Notwithstanding Subsection F of this section above, a prohibition of on-street parking.
 - (3) A requirement that visitors must have scheduled appointments.
 - (4) A limit on the number of vehicles that may be parked in the driveway or designated parking area of the premises at any one time.
 - (5) A requirement that existing driveways must be expanded, or may not be expanded, to accommodate visitor parking.
 - (6) Restrictions on public advertising inviting patients, clients, customers or students to visit the premises at will if the premises are identified in such advertising by specific address.
 - (7) The scope of the use for which the residence is to be used and/or any other restrictions which may be reasonable, in light of the potential adverse impacts of operation of the customary home occupation to the neighborhood.

§ 180-38. Roadside Stands.

- A. Roadside stands for sale of agricultural products shall be permitted if:
- (1) They are erected at least 20 feet back from the nearest edge of the roadway surface.
 - (2) They are used primarily for the sale of agricultural products grown locally.
 - (3) Parking spaces are provided off the road right-of-way.
 - (4) Adequate ingress and egress is provided.
- B. Signs shall conform to the provisions set forth in § 180-36.

§ 180-39. Future streets.

After a line of a future street is placed on the Official Map of the Town of Athens, if adopted in accordance with §§ 270 and 273 of the Town Law, any building shall be set back from such line as though it were a street line. unless a variance has been obtained pursuant to Section 280 of the Town Law.

§ 180-40. Storage of Manufactured Homes, Boats, Trailers and Trucks.

No manufactured home, boat, trailer or truck (other than a pickup truck) shall be stored in the front yard in any district unless it is kept in a neat and orderly condition as determined by the Town

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Board.

§ 180-41. Mining, Excavation, Removal, Filling and Depositing.

- A. All requirements of the Town of Athens Local Law # ___ of 2009 shall be met, as may be amended from time to time.

§ 180-42. Multi-Family ~~Houses~~Dwellings.

- A. In any district where multi-family dwellings are permitted, there shall be a minimum lot ~~dimension~~size of 1 acre. In no case shall the density exceed 6 dwelling units with ~~Board~~New York State Department of Health and/or Town Engineer or a designated Planning Board engineer approved waste water treatment systems per acre of ~~buildable~~usable land.
- B. All structures containing multiple family ~~units~~dwellings shall have a minimum roof pitch of 6 over 12.
- C. All front yards attached to multiple family ~~structures~~dwellings shall have a clearly defined front yard using landscaping, fencing, hedging, or brick or stone wall, none of which shall exceed three feet in height. Front yards of attached townhouses may be unified into one common yard treated as a single front yard for the entire building.
- D. All townhouse multiple family ~~units~~dwellings shall have the following dimensions:
- (1) Maximum building coverage: 60%
 - (2) Minimum non-impervious surfaces: 30%
 - (3) Maximum building size: four dwelling units in a row and 100 feet in length.
 - (4) Open space between buildings on the same lot: 30 feet
 - (5) Rear yard garage required.
 - (6) All front, side and rear yards as required by this chapter
- E. All apartments or other type of multiple family ~~units~~dwellings shall have the following dimensions:
- (1) Maximum building coverage: 60%
 - (2) Minimum non-impervious surfaces: 30%
 - (3) Maximum building size: six dwelling units in a building and 95 feet in length.
 - (4) Open space between buildings on the same lot: 30 feet
 - (5) Rear yard garage required.
 - (6) All front, side and rear yards as required.

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- F. All multiple family dwelling developments shall:
- (1) Consist of structure of an architectural style that emulates single-family residences in building design, entrance, and other architectural details
 - (2) Limit uniformity and monotony by limiting the repetition of colors, materials and architectural details throughout the neighborhood. Buildings should vary in appearance but share a common design style.
- G. Paved off-street parking areas shall be provided as follows:
- (1) On-site pedestrian and vehicle circulation shall be designed to limit traffic hazards.
 - (2) Two (2) parking spaces per dwelling unit shall be required.
 - (3) Parking and traffic circulation should include appropriate signs and striping to direct traffic on and off-site.
 - (4) Sidewalks shall be provided, as appropriate, to connect the residential units with parking areas, public streets, recreation areas, and other apartment building(s) and other existing sidewalks if present.
- H. Buffer areas shall be used to maintain natural areas between multi-family structures. Buffer strips shall consist of trees, hedges, dense plantings, earth berms, and other changes in grade.
- I. Landscaping and screening shall conform to the following minimum standards:
- (1) Use of existing vegetation to the greatest extent possible.
 - (2) Along road frontage, a ten (10) foot wide, landscaped buffer shall be provided and designed so as not to obstruct sight distance at road access points.
 - (3) Units shall be sited for maximum preservation of mature trees (trees of twelve (12) inches or more in diameter).
 - (4) Clear cutting of the entire site area is prohibited.
 - (5) Lighting provided on the site to ensure safe movement of persons and vehicles and for security purposes shall conform to the following standards:
 - a. All lighting shall be designed and arranged so as to minimize glare and reflection on adjacent properties.
 - b. The maximum height of freestanding lights should not exceed twenty (20) feet.
 - c. The source of the lights shall be shielded or located such that it shall not be visible outside the boundaries of the parcel being developed.
 - (6) The Planning Board may require that all utilities, exclusive of transformers, be placed underground at the time of initial construction. Required utilities may include water, sewer, storm drainage, telephone, TV cable, electricity, gas, and wiring for streetlights.
 - (7) Solid waste and recycling receptacles of adequate capacity shall be provided for the maximum number of residents. Receptacles shall be screened from view by fencing or landscaping and properly emptied to prevent odor and unsanitary conditions. The receptacle shall be designed to prevent loose litter.
 - (8) Snow storage areas shall be indicated on the site plan and shall not interfere with required parking or traffic circulation.

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- (9) There shall be adequate provision for fire fighting. The applicant shall provide a fire fighting plan to assure the required water quantity will be readily available, and that such water will be provided for firefighting purposes.
- J. One sign per entrance that identifies the development is permitted and should be compatible with the general environment of the project site. Signs should conform to the following standards.
- (1) Maximum height for each two (2) sided, freestanding entrance sign, from base elevation, shall be no greater than six (6) feet.
 - (2) Maximum area of one side or face of a sign shall not exceed ten (10) square feet.
 - (3) All signs should be erected a minimum of fifteen feet (15) feet from any roadway edge.

§ 180-43 Accessory Apartments.

- A. One accessory apartment may be located in an accessory structure or a principal building subject to Special Use permit approval and provided that the following conditions are met.
- (1) An accessory apartment may be located within a principal building by right provided the minimum acreage required for that principal building is met.
 - (2) Such accessory structure shall meet the minimum lot size requirements required in the zoning district in which it is located in addition to the lot requirements of the principal structure and shall be considered one dwelling unit for calculation of density as per 180-12.
 - (3) An accessory apartment shall be no larger than 50% of the total square footage of the principal ~~structure~~building, not including an unfinished basement.
 - (4) The owner of the one family dwelling or lot in which the additional dwelling unit is to be located shall ensure that the building and grounds are maintained in good condition.
 - (5) There shall be no more than one accessory apartment unit per dwelling or lot.
 - (6) The entry and design of the principal dwelling shall not be modified in a manner which changes the appearance of the dwelling as a single family structure.
 - (7) In addition to the parking requirements for a single family dwelling, two off street parking spaces shall be provided.
 - (8) All dwelling units and the structures in which they are situated shall meet all standards and requirements of the New York State Uniform Fire Prevention and Building Code.

§ 180-44 ~~Auto and Scrap~~Motor Vehicle Junkyards.

All requirements of the Town of Athens Town Code Chapter ~~1724~~-116 shall be met.

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§ 180-45 Autobody or Major Repair Shops.

- A. The Zoning Board of Appeals may grant a special permit for the operation of an auto body or major repair shop, provided that:
- (1) Minimum size of lot. The site shall have frontage of at least 100 feet on a public road and shall have a depth of at least 100 feet. Autobody repair shops designed to serve trucks larger than five tons in capacity shall have sufficient additional frontage so that any vehicle leaving the property may turn into the nearest lane of traffic moving in the desired direction and be channeled within such lane before crossing the nearest intersection or proceeding along the road and any vehicle entering the service station property may turn out of the nearest lane of traffic without interfering with other traffic.
 - (2) The following setbacks or yards controls dimensions for this use and shall be required, but in no case shall any yard be less than required on the Table of Dimensional Requirements:
 - a. Minimum front setback. All structures, except underground tanks, shall be 45 feet from the road right-of-way.
 - b. Minimum side yard. The minimum side yard shall be 10 feet, except that all buildings shall be set back at least 50 feet from the side lot line if abutting a residence district.
 - c. Minimum rear yard. The minimum rear yard shall be 30 feet.
- B. Driveways and service apron.
- (1) There shall be no more than two driveways entering a single road. Such driveways shall be no closer to each other than 15 feet, measured along the road line, and shall be at least 30 feet from any intersection of public roads and 10 feet from any side lot line. Driveways shall not be more than 30 feet wide nor less than 20 feet wide at the curb line.
 - (2) All driveways, parking or standing areas, including the service apron, shall be permanently improved with a paved surface. Adequate provision shall be made for the collection and disposal of stormwater onto adjoining property or across a public sidewalk. Stormwater runoff shall not be discharged into a public street without the prior approval of the Town Superintendent of Highways.
- C. All repair and service work, including car washing, but excluding emergency service and the sale of fuels and lubricants, shall be conducted entirely within a building and shall be performed only between the hours of 7:00 a.m. and 10:00 p.m. The number of vehicles outside at any one time shall not exceed the number of parking spaces designated on the site plan. The Zoning Planning Board ~~of Appeals~~ may also limit the amount of overnight parking and require suitable fencing to protect surrounding properties. Where wrecked vehicles are impounded on the site at the direction of a duly authorized law enforcement agency, such wrecked vehicles shall be removed from the property as soon as possible. Such wrecked vehicles may be stored in an outside area, provided that such area is fenced with an opaque fence of sufficient height so as to conceal the vehicles from ground-level view from the public road or from any adjacent properties in a residential district, but not higher than 10 feet.

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- D. There shall be no dumping of waste materials, such as oil or grease, except in a closed, aboveground, noncorrosive receptacle. Debris and trash shall be deposited in receptacles maintained for that purpose.
- E. There shall be no residence or sleeping quarters maintained in any autobody repair shop.

§ 180-46 Bed and Breakfast Inns.

- A. Bed and Breakfasts shall be owner-occupied and their Certificate of Occupancy shall so stipulate.
- B. Unless otherwise allowed by the Planning Board, off-street parking shall not be located in a front yard and shall be screened from roads and adjacent properties so as to provide no variation from the residential character of the site. Off-street parking spaces for members of the owner's family residing in the dwelling unit as well as one parking space per room shall be provided.
- C. Each bed-and-breakfast shall be established, maintained and operated so as to preserve and complement the residential character and integrity of the surrounding area.
- D. No guest shall stay for a period of time in excess of thirty (30) consecutive days.
- E. Each bedroom occupied by a paying guest shall be equipped with a properly installed and functioning smoke detector. Further, a smoke detector shall be properly installed and functioning on or near the ceiling in the room or hallway from which each bedroom rented to paying guests exists.
- F. The Code Enforcement Officer shall be given such access to the dwelling on an annual basis for the purpose of making inspections to ensure compliance with all federal, state and local codes, rules and regulations, including the New York State Uniform Fire Prevention and Building Code. An operating permit and fire safety site inspection shall take place annually. Upon issuance of a special use permit for a Bed and Breakfast, the owner shall give written permission for periodic site inspection by the Code Enforcement Officer.
- G. A single exterior sign or display may be established on the site of the bed-and-breakfast. Said sign or display shall not exceed six (6) square feet in area. No freestanding sign shall be located less than fifteen (15) feet from the front property line or less than five (5) feet from the side property line. Further, said sign or display shall be as unobtrusive as reasonably possible and may be illuminated by no more than two (2) seventy-five-watt light bulbs which shall be shielded so as to prevent glare, etc.
- H. During Site Plan Review, the Planning Board shall consider the
 - (1) Adequacy and arrangement of vehicle traffic access and circulation,
 - (2) Location, arrangement, appearance and sufficiency of off-street parking,
 - (3) Location, arrangement, size and design of lighting and signs,

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- (4) Relationship and compatibility of proposed use (bed-and-breakfast) to uses of adjacent parcels in the immediate vicinity, together with their scale,
- (5) Adequacy, type and arrangement of trees, shrubs, fences and other landscaping or improvement constituting a visual or noise-detering buffer between the site and adjacent or adjoining uses.

§ 180-47 Fueling Stations.

- A. Fueling stations shall be permitted only on lots of 1 ½ acre or more, with 250 feet minimum road frontage.
- B. ~~The area~~Except for ~~use by motor vehicles, except~~ access drives ~~thereto, as well as any, no~~ structures, facilities, parking for vehicles, or vehicular or related activities shall ~~not~~ encroach ~~on any~~in the required ~~yard area~~setbacks.
- C. No fuel pump shall be located closer than 20 feet from any side lot line nor closer than 35 feet from any street line, measured from the outside of the fuel island. Pumps should be sited to the side or rear of the structure to the extent practicable.
- D. Storage shall be within a completely enclosed building which has a maximum height of 25 feet.
- E. The Planning Board may limit the number of gas or other fuel pumps to ensure consistency in scale between the gas filling station and adjacent land uses.
- F. There shall be no unnecessary or unsafe glare ~~off~~from canopy islands outside the boundaries of the site.
- G. All canopy lights shall be recessed with no bulb, lens or globes extending below the casing or canopy ceiling.
- H. No signs shall be allowed on the canopy mansard, fascia or roof area covering gas dispensers.
- I. There shall be no amplified sound audible at property lines.
- J. All pumps, pump islands, tanks, piping and canopies shall be removed when fuel dispensing activity has been inactive for a period of 12 months.
- K. The canopy shall reflect the design of the building and be consistent with the main structure's roofline.
- L. Construction, maintenance and inspection of any fueling station shall use all applicable federal, state and county environmental protection and mitigation requirements relative to installation, use and removal of tanks and pumps.
- M. The Planning Board shall require a traffic impact analysis.

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- N. Applicants shall prepare and maintain on site, an acceptable Spill Prevention, Control and Countermeasure Plan prepared under the supervision of a professional licensed engineer.
- O. The Special Use Permit shall require that employees shall be up-to-date in Spill Prevention training.
- P. The Planning Board may limit hours of operation or limit acceptable hours of fuel delivery where a fueling station is adjacent to residential uses.
- Q. Applicants shall evaluate site conditions and provide information, analysis, and evidence that the proposed gasoline filling station will not degrade the quality of groundwater. Mitigation measures including, but not limited to use of steel above ground tanks encased in concrete, shall be implemented to reduce or eliminate risks to groundwater.

§ 180-48 Kennels and Veterinary Hospitals.

- A. Animal waste shall be disposed of in a manner acceptable to the Department of Health.
- B. Crematoria or land burial of animals in association with a commercial kennel or veterinary hospital shall be reviewed as part of the special use permit.
- C. The minimum area required shall be 2 acres.
- D. All facilities associated directly with the kennel or veterinary hospital, whether indoors or outdoors, shall be set back a minimum of 100 feet from any property line.
- E. Parking, where ever practical shall be located behind the front line of the principal building to the side or rear of the structure.
- F. The Planning Board shall evaluate potential noise impacts and shall minimize negative impacts on adjacent uses which may include sound proofing.
- G. The Planning Board may require screening of outdoor runs from view.

§ 180-49 Hotels, Motels, Resorts, ~~Restaurants, Eating or~~ Drinking Establishments.

Motels, resorts and eating or drinking establishments shall be designed, laid out and landscaped to fit into the natural landscape and not diminish the ~~residential~~ character of the district. Particular attention shall be given to visual, sound and traffic impact. If the ~~Zoning~~Planning Board ~~of Appeals~~ determines that these or other standards cannot be adequately met or the negative impact minimized through additional requirements, the special use permit shall be denied.

§ 180-50. Wind Energy Conversion Systems.

- A. Wind Energy Conversion Systems (WECS) located on a non-agricultural parcel: Only one wind energy system per legal non-agricultural parcel shall be allowed except when a clustered subdivision occurs . In that case, the Planning Board shall determine the appropriate location for WECS for the subdivision.

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- B. WECS located on an agricultural parcel: All WECS proposed to be located in a New York State certified agricultural district shall be a permitted use subject to site plan review. More than one WECS shall be allowed per legal parcel limited to the minimum number of WECS needed to meet on-farm electrical needs. When electrical output from a WECS consistently results in net-metering and excess electricity is sold back to the electrical grid, then no additional WECS can be installed on the property. During site plan review, the Planning Board shall review proposed total output of the WEC in kWh, along with proof of the agricultural uses total electrical needs in order to determine if it is likely that net-metering will occur.
- C. Wind Energy System Height: Shall be limited to 100 ft.
- D. Set-back: The distance between a Wind Energy Conversion System and the property line shall be at least the Wind Energy Conversion System Height.
- E. Noise: Wind energy systems shall not exceed 60 dBA, as measured at the closest property line. The level, however, may be exceeded during short-term events such as severe wind storms. ~~Should there be a complaint, then the complainant shall prove non-compliance.~~
- F. Compliance with Building Code of New York State: A Building Permit shall be required prior to construction. An engineering analysis of the tower showing compliance with the manufacturer's installation instructions or certified by a licensed professional engineer shall be submitted as part of the Building Permit application.
- G. Compliance with Other Regulatory Agencies: Wind energy systems must comply with all applicable regulations, including any necessary approvals for installations, as needed from State, County, or other regulatory agencies (for example, the FAA when the tower is proposed close to airports)
- H. Abandonment of use: A wind energy system which is not in use for eighteen successive months shall be deemed abandoned and dismantled and removed from the property at the expense of the property owner.
- I. Visual Disruption: The systems' tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the extent reasonably possible, and incorporates non-reflective surfaces to minimize any visual disruption.

§ 180-51. Conservation standards.

Any proposed development shall be designed and constructed in order to meet the following:

- A. Erosion, sediment and runoff.
 - (1) Sediment and runoff are to be no greater than that normally expected from the watershed when under an effective management system acceptable to the ~~district~~Town.
 - (2) Significant runoff is to be confined to natural watercourses.
- B. Soil limitations. Developers or other land users are to permanently overcome all limitations of

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soils with moderate and severe limitation so that no detrimental effect will occur to local units of government or future owners.

- C. Soil stability. Buildings or other permanent facilities are to be confined to soils that are not subject to slippage or other conditions of soil instability.²
- D. Water resource areas. The environmental quality of water, lakeshores, river shores, and stream banks is to be conserved.
- E. Groundwater resources. Land use is to be planned so as to maintain or enhance the quality and quantity of groundwater resources. Significant recharge areas must be protected.
- F. Wetlands. The significance of wetlands shall be carefully evaluated by the ~~Town~~[Town Planning Board](#) or Zoning Board of Appeals prior to disturbing the material state of wetlands.
- G. Natural environmental features. A sufficient amount of natural environmental features is to be protected to maintain the character of the area.
- H. Open space. Open space is to be an integral part of any development in sufficient quantity to accommodate the intensity of use. Open space may include features such as stream belts, wetlands, parklands, unique lands and open farmlands, as well as other lands where rare and endangered species are found.

§ 180-52. Reserved

§ 180-53. Reserved

§ 180-54. Reserved

2. Editor's Note: Original Sec. 417.4, regarding areas of special flood hazard, which immediately followed this subsection, was deleted 9-25-2000 by L.L. No. 3-2000. See now Ch. 105, Flood Damage Prevention.

ARTICLE IV

Site Plan Review and Special Permits

§ 180-55. Site Plan Review.

- A. Authorization and Purposes. Pursuant to § 274-a of the Town Law, the Planning Board shall review and approve, approve with modifications or disapprove site plans prepared to the specifications set forth herein showing the arrangement, layout and design of the proposed physical improvements necessary for the use of the land on said plan. These regulations establish a review process and development standards to ensure that the following general conditions have been met:
- (1) The site plan shall be compatible with the goals, policies and standards set forth in the Town and Village of Athens Comprehensive Plan;
 - (2) Adjacent properties are protected from nuisance caused by noise, traffic, noxious or harmful fumes and glare of lights;
 - (3) Significant natural, cultural and historical features on the site are preserved as much as possible including but not limited to water bodies, wetlands, woodlands, native plants, wildlife habitats, scenic locations, historic locations, and other areas of aesthetic and ecological interest;
 - (4) Adequate facilities for off-street parking and loading, drainage, snow removal, fire protection and methods of solid waste disposal are provided on site;
 - (5) Roads, pedestrian ways, access driveways, and other infrastructure are properly designed and operated for public convenience, accessibility, public safety, and for consistency with desired aesthetic character as outlined in the Town and Village of Athens Comprehensive Plan;
 - (6) Pollution of air, streams, ponds, lakes and groundwater supplies is minimized;
 - (7) Development will be compatible with its surroundings and in keeping with the character of the Town of Athens.
- B. Applicability. Pursuant to Table 1 (Permitted Uses), no building permit shall be issued for the construction, reconstruction, expansion, relocation of a structure on a lot in any district, until the Planning Board has approved, or approved with modifications, a site plan for such improvement. Further, any change of use of an existing structure or lot that results in an increase or change in parking, an increase in impervious surface area, erection of a new sign, or proposed structural enlargement shall be subject to site plan approval prior to issuance of a building permit.
- C. Certificate of occupancy. The Code Enforcement Officer shall ensure that any proposed element of site development that requires site plan approval under this chapter obtains such approval prior to issuing any certificate of occupancy for the use.
- D. Presubmission conference.
- (1) A presubmission conference shall be required for any site plan. The purpose of such

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conference is to clearly establish the extent and degree of documentation necessary for the Planning Board to consider an application to be complete, including the following:

- a. To fully identify the physical and dimensional requirements of proposed use.
 - b. To establish those elements of Subsection E below that shall be required for site development review.
- (2) Any presubmission conference shall be held during a workshop or regular meeting of the Planning Board and attended by the applicant, his/her professional representative, the Code Enforcement Officer and/or consultants retained by the Town.
- (3) The applicant shall provide five copies of the following information to the Planning Board for the presubmission conference:
- a. A statement and rough sketch showing the locations and dimensions of the principal and accessory structures, parking areas, access signs, existing and proposed vegetation, anticipated changes in the existing topography and natural features; and where applicable, measures and features to comply with flood hazard and flood insurance regulations.
 - b. An area map showing the parcel under consideration for site plan review, and all properties, subdivisions, streets, rights-of-ways, easements and other pertinent features within 200 feet of the boundaries of the parcel.
 - c. A topographic or contour map of adequate scale and detail to show site topography. The Planning Board shall have the discretion to waive the provision of a topographical map in the event that the applicant shall show that the contour of the subject matter parcel(s) does not impact in the project in any manner.
 - d. A sketch showing locations of natural features such as wetlands, streams, or lakes.

E. Within six months following a Planning Board presubmission conference, the applicant shall prepare and submit five duplicate copies of a complete application for site plan review, and submit such application to the Code Enforcement Officer. If such application is not submitted within this six-month period, an additional presubmission conference may be arranged. Each of the following elements shall be included in any site plan submitted for approval under this section and shall bear the certification of a licensed engineer or architect:

- (1) The applicant's name and address and his/her interest in the subject property.
- (2) The owner's name and address, if different than the applicant, and the owner's signed consent to the filing of the application.
- (3) The street address and legal description of the property.
- (4) The zoning classification and present use of the subject property.
- (5) The particular provision of this chapter requiring site plan approval.
- (6) The proposed use or uses and a general description of the proposed development.

[a. A disclosure of interest form if required pursuant to General Municipal Law Section 809.](#)

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b. An Agricultural Data Statement if required by the Agriculture and Markets Law.

- (7) A site plan drawn to scale of not less than 50 feet to the inch, on one or more sheets, illustrating the proposed development and use and including the following:
- a. The boundary lines and dimensions of the subject property; existing subdivision lots; available utilities; and easements, roadways, rail lines and public rights-of-way crossing and within 500 feet of the subject property.
 - b. Any proposed regrading of the subject property and any significant natural, topographical or physical features of the property, including, at least, watercourses, vegetation, marshes, trees in excess of four inches in diameter and existing contours in excess of four feet in 100 feet, steep slopes.
 - c. The location, design, size, use and arrangement (including height in stories and feet, floor area ratio, total floor area, total square feet of ground area coverage, and number and size of dwelling units, by number of bedrooms) of proposed buildings and existing buildings which will remain, if any. Include elevation and façade treatment plans of all proposed structures.
 - d. Minimum yard dimensions and, where relevant, relation of yard dimensions to the height of any building or structure.
 - e. Location, dimensions and number of all vehicular and pedestrian circulation elements, including streets and roadways, driveways, entrances, exits, curbs, curb cuts, parking stalls, loading spaces and access aisles; sidewalks, walkways and pathways, including slope and gradient of vehicular elements; total lot coverage of all circulation elements, divided as between vehicular and pedestrian ways; and where more than 10 parking and loading spaces are required. Approval of all necessary permits and curb cuts from state and county officials shall be required prior to site plan approval.
 - f. All existing and proposed surface and subsurface drainage facilities, including drains, culverts, retaining walls and fences, grading, and soil erosion and sediment control plan if required by Department Of Environmental Conservation or by other local laws.
 - g. Description of method of sewage disposal and location of such facilities.
 - h. Details of the proposed water supply system.
 - i. Location, design, and size of all signs.
 - j. Location and design of lighting facilities, including pole height, bulb type and wattage.
 - k. Location of outdoor storage, if any.
 - l. Location of proposed buffer areas.
 - m. Location and design of landscaping. All site plans shall include a separate landscape plan for those portions of the site not covered by buildings, structures, required off-street parking and loading spaces, sidewalks or similar

improvements. The landscaping plan shall show those areas landscaped with trees, grass and plantings of such type, height and location as may be necessary to harmoniously blend the site with the character of the neighborhood and Town. All required landscaping shall be installed and maintained in good condition.

- n. Location and description of critical wildlife habitats, if any.
- o. Location and description of any scenic views identified in the Town of Athens Comprehensive Plan or subsequent viewshed studies.
- p. Location of fire lanes and other emergency zones, including the location of fire hydrants, if any.
- q. Location, design and construction materials of all energy generation and distribution systems.
- r. Identification of any permits from other governmental bodies required for the project's execution and a record of applications and approval status of all necessary permits from federal, state, county and local agencies.
- s. State Environmental Quality Review Act (SEQRA) Environmental Assessment Form.
- t. If in the opinion of the Planning Board, projects could have traffic, visual, or stormwater impacts, the applicant shall submit, at their expense, traffic impact and drainage design reports, or visual impact assessments.

F. Exceptions.

- (1) For minor site development plans or minor modifications to approved site plans or in other appropriate circumstances as determined by the Planning Board, the Planning Board may waive the provision of any items of information listed in Subsection E of this section. The Planning Board must state in writing its grounds for electing to conduct a less intensive review and file such statement along with the site plan application and supporting documents. Waivers shall be explicitly requested by the applicant in writing and expressly granted by the Planning Board. Requirements of this law may not be waived except as properly voted by the Planning Board.
- (2) In the case of a use conversion which does not require additional construction or site modifications, or in the case of minor changes in existing conditions requiring a building permit, the Planning Board may determine that the site plan procedures outlined in this section are not applicable and may be waived. This determination shall be made by the Planning Board after receipt of a recommendation from the Code Enforcement Officer.
- (3) At the request of the Planning Board, any other pertinent information as may be necessary to determine and provide for the proper enforcement of specific provisions of this chapter shall also be provided.

G. SEQRA review. An application for a site plan approval shall not be deemed complete until the Planning Board or another involved agency shall have adopted a negative declaration of significance or issued and filed a notice of completion of a DEIS.

H. Site plan review Process.

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- (1) The Planning Board shall, within 45 days of a site plan application being filed, determine whether to accept the application as administratively complete and begin the review process, or to reject the application as being incomplete.
- (2) Public hearing. The Planning Board shall hold a public hearing on any site plan review.
 - a. Such hearing shall take place within 62 days from the date that the Planning Board receives a complete application for site plan review.
 - b. The Planning Board shall mail notice of said hearing to the applicant at least 10 days before said hearing and shall give public notice of said hearing in a newspaper of general circulation in the Town at least five days prior to the date thereof. Such public hearing may include any SEQRA public hearing.
- (3) Other referrals. The Planning Board shall comply with the provisions of Article 12-B, §§ 239-l and 239-m, of the General Municipal Law, as amended, and refer to the Greene County Department of Planning all site plan applications that are within its jurisdiction at least 10 days prior to the Public Hearing. An application for a site plan review must also contain an agricultural data statement if any portion of the project is located on property within a New York State certified Agricultural District or other property within 500 feet of a farm operation located in such agricultural district. The agricultural data statement shall contain the name and address of the application, a description of the proposed project and its location, the name and address of any owner of land within the agricultural district which contains farm property upon which the project is proposed, and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement. The Planning Board shall evaluate the impact of the proposal on existing agricultural operations. A written notice of such application, including a description of the proposed project and its location shall be mailed to the owners of land as identified by the applicant in the statement.
- (4) No decision shall be made prior to full compliance with the SEQRA regulations as codified in 6 NYCRR Part 617.
- (5) The Planning Board shall be authorized to retain the services of a consultant, including but not limited to an engineer, planner and attorney, to assist in the review of the application. Reasonable and necessary costs incurred by the Planning Board for professional review of an application shall be charged to the applicant pursuant to Chapter 153 of the Athens Town Code. The Planning Board may also consult with an engineer or other officials as well as with representatives of federal and state agencies, including the Greene County Soil and Water Conservation District, the US Army Corps of Engineers, and the Department Of Environmental Conservation.
- (6) The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. Upon its approval of said site plan, any such conditions shall be met in connection with the issuance of permits by applicable enforcement agents or officers of the Town.
- (7) The Planning Board shall require all approvals from any involved local, county, state or federal agency to be submitted in writing to the Planning Board before site plan approval is granted.

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- (8) The grounds for any modification to the site plan documentation shall be stated on the records of the Planning Board.
- (9) Performance bonds. The applicant may be required to post performance bonds pursuant to law in sufficient amounts and duration to assure that all streets or other public places shown on the site plan shall be suitably graded and paved and that street signs, sidewalks, street lighting standards, curbs, gutters, street trees, water mains, fire alarm signal devices, including necessary ducts and cable or other connecting facilities, sanitary sewers and storm drains or combined sewers shall all be installed in accordance with the standards, specifications and procedures acceptable to the appropriate Town departments.
- (10) The Planning Board shall make a decision on the application within 62 days after the close of the public hearing. The Planning Board shall approve, approve with modifications, or disapprove the site plan.
 - a. This time period may be extended upon the mutual consent of the applicant and the Planning Board.
 - b. In the event that the Planning Board fails to act within the prescribed time period, the site plan shall be deemed approved.
- (11) Within five business days after a decision is rendered, the decision shall be filed in the office of the Town Clerk and a copy thereof mailed to the applicant.
- (12) The grounds for disapproval of a site plan shall be stated upon the records of the Planning Board.
- I. Factors for consideration. The Planning Board's review of a site plan shall include but is not limited to the following considerations:
 - (1) The character of the town, neighborhood and values of surrounding property are safeguarded.
 - (2) The degree in which the proposal recognizes the assets and limitations of the physical features of the site and protects important environmental resources.
 - (2) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures and traffic controls and consistency with the Town and Village of Athens Comprehensive Plan. The Planning Board may require use of coordinated access points between parcels or between parking lots to facilitate access and to decrease traffic congestion. Whenever possible, new roads shall be built as connective thoroughways extending from existing road networks.
 - (3) The Planning Board may require site plan incorporation of pedestrian and bicycle facilities. Adequacy and arrangement of pedestrian traffic access and circulation, including separation of pedestrians from vehicular traffic, walkway structures, control of intersections with vehicular traffic and pedestrian convenience.
 - (4) Location, arrangement, appearance and sufficiency of off-street parking and loading.
 - (5) Location, arrangement, size and design of building, lighting and signs and consistency

with the rural character of Athens.

- (6) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or a noise-detering buffer between these and adjoining lands. Natural vegetation, especially mature trees, is encouraged to remain on the property. A landscaped buffer shall be provided whenever a non-residential use is proposed adjacent to a residential use to visually screen and to decrease noise and other impacts.
 - (7) In the case of an apartment house or multiple dwelling, the adequacy of usable open space for playgrounds and informal recreation.
 - (8) Adequacy of stormwater and sanitary water disposal facilities.
 - (9) Adequacy of structures, roadways and landscaping in areas with moderate to high susceptibility to flooding and ponding and/or erosion.
 - (10) Protection of adjacent properties against noise, glare, unsightliness or other objectionable features.
 - (11) Protection of agricultural resources including prime soils and soils of statewide significance.
 - (12) Protection of critical wildlife habitats and preservation of a diversity of habitats to support wildlife, especially those habitats associated with streams.
 - (13) Protection of stream-side vegetation and natural ecological systems.
 - (14) Protection of historical and natural resources that may be present on the site. The proposed use shall be designed and shall be carried out in a manner that protects historic and natural environmental features on the site under review. In reviewing the plans, the Board shall give consideration to the historic or architectural value and significance of the structure and its relationship to the historic value of the surrounding area.
 - (15) Size and scale. The location and size of such use, the nature and intensity of operations involved in or conducted in connection with the use, the size of the site in relation to the use, its site lay out, and its relation to existing and future access streets shall be consistent with the Town and Village of Athens Comprehensive Plan and its primary goals of protecting community character and the environment.
- J. Reservation of parkland. Before the Planning Board may approve any site plan containing residential units, such site plan shall also show, when required by such Board, a park or parks suitably located for playground or other recreational purposes.
- (1) The Planning Board shall not require land for park, playground or other recreational purposes until it has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Town. Such findings shall include an evaluation of the present and future needs for park and recreational facilities in the Town based on projected population growth to which the particular site plan will contribute.
 - (2) In the event the Planning Board makes a finding pursuant to the preceding subsection that the proposed site plan presents a proper case for requiring a park or parks suitably

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located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such site plan, the Planning Board may require a sum of money in lieu thereof. In making such determination of suitability, the Board shall assess the size and suitability of lands shown in the site plan which could be possible locations for park or recreational facilities, as well as practical factors, including whether there is a need for additional facilities in the immediate neighborhood. Any monies required by the Planning Board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited by Town to be used by the Town exclusively for park, playground or other recreational purposes, including the acquisition of property.

- (3) Notwithstanding the foregoing provisions, if the land included in a site plan under review is a portion of a subdivision plat which has been reviewed and approved pursuant to § 276 of the Town Law, the Planning Board shall credit the applicant with any land set aside or money donated in lieu thereof under such subdivision approval. In the event of resubdivision of such plat, nothing shall preclude the additional reservation of parkland or money donated in lieu thereof.
- K. Area variance. Where a proposed site plan contains one or more features which do not comply with this chapter, application may be made to the Zoning Board of Appeals for an area variance pursuant this chapter without the necessity of a decision of the Code Enforcement Officer. In reviewing such application, the Planning Board shall provide a written recommendation concerning the proposed variance to the Zoning Board of Appeals.
- (1) Such application shall be made part of the application for such site plan approval.
 - (2) The fee for such application shall be in addition to that required for said site plan approval.
- L. Revocation and expiration of site plan approval.
- (1) A site plan shall be void and the building permit, if any, shall be revoked if substantial construction is not started within one year and completed within two years of the site plan approval.
 - (2) The Planning Board may, at its discretion, after conducting a public hearing, grant an extension to an approved site plan. The applicant shall submit a written request 30 days prior to the expiration of the site plan, explaining the reasons for and requesting an extension for a specified time. In granting the extension, the Planning Board may require revision of the previously approved site plan to comply with current regulations and conditions.
 - (3) The Planning Board shall render a decision, in writing, to the applicant and the other appropriate agencies within 45 days of closing the public hearing; provided, however, that the time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board.
 - (4) All previously approved site plans shall be completed within three years of the date of adoption of this section or be subject to the requirements of this section.
- M. Amendment of Approved Site Plan. An approved site plan may be amended at any time in the

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same manner and subject to the same standards and limitations as provided in this section for original site plan approval.

§ 180-56. Special Use Permits.

- A. General provisions. The special uses for which conformance to additional standards is required shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements of this chapter. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case. The Planning Board is authorized to review and decide all special use permits. In permitting a special use, the Planning Board may impose, in addition to those standards and requirements expressly specified by this law, any additional conditions which the Board considers necessary to protect the best interests of the surrounding property, the neighborhood, or the town as a whole.
- B. Required plan. A plan for the proposed development of a site for a permitted special use shall be submitted with an application for a special permit, and such plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping and any other pertinent information that may be necessary to determine if the proposed special use meets the requirements of this chapter. Such application shall also include an Environmental Assessment Form and all necessary documentation to comply with SEQRA. No application shall be deemed complete until a negative declaration or until a Draft Environmental Impact Statement has been accepted by the lead agency. The application shall be accompanied by any or all of the following information, as required by the Planning Board:
- (1) Agricultural Data Statement.
 - ~~(2)~~ [\(2\) A disclosure of interest form if required pursuant to General Municipal Law Section 809.](#)
 - [\(3\)](#) Area map showing that portion of the applicant's property under consideration, the applicant's entire adjacent holdings and all properties, streets, and easements within 500 feet of the applicant's property. Such map shall be prepared by a licensed engineer, architect, landscape architect, or surveyor, and certified by the seal and signature of such professional.
 - ~~(34)~~ An area map showing existing watercourses, open water, areas subject to flooding, and regulated wetlands.
 - ~~(45)~~ A plan showing the location of all buildings, off street loading and parking facilities, location and size of outdoor storage, location of all existing and proposed site improvements, description of method of sewage disposal and location of such facilities, location and size of all signs, location and treatment for all buffer areas, location and design of lighting facilities.
- C. Expiration. A special permit shall be deemed to authorize only one particular special use and shall expire if the special use shall cease for more than twelve months for any reason.
- D. Existing violations. No permit shall be issued for a special use for a property where there is an existing violation of this chapter.
- E. Standards.

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- (1) The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to it and the location of the site with respect to the existing or future streets giving access to it shall be such that it will be in harmony with the orderly development of the district, and the location, nature and height of buildings, walls, and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof and will be consistent with the Town and Village of Athens Comprehensive Plan, and with the protection of the rural character and environment of the Town.
- (2) Operations in connection with any special use shall not be more objectionable to nearby properties by reason of noise, fumes, vibration or flashing lights than would be the operations of any permitted use.
- (3) Additional conditions which are necessary to meet the criteria of § 180-55.
- (4) The Planning Board's review of an application for special use permit shall include, but is not limited to, the following considerations:
 - a. The general land use performance standards applicable to the proposed use.
 - b. Compatibility of the proposed use with adjoining properties, with the natural and built environment in the area, with the purposes of this law and with the purposes and requirements of the land use area and any applicable Overlay Districts.
 - c. Adequacy of parking for the proposed use. Shared parking is encouraged where the peak parking demands of different uses occur at various times of the day. Use of a widely accepted means of projecting demand for shared use, such as the Urban Land Institute's Shared Parking report, shall be employed to demonstrate shared parking effects.
 - d. Accessibility to fire, police, and emergency vehicles.
 - e. Suitability of the property for the proposed use considering its size, topography, vegetation, soils, and hydrology and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads. The Planning Board may impose setbacks greater than those contained in this law if they are necessary to meet the goals of the law.
 - f. Environmental, social and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, glare, or any other nuisances. The proposed use shall be designed and shall be carried out in a manner that protects natural environmental features on the site under review and in adjacent areas.
 - g. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, drainage channelization structures and traffic controls. Consideration will also be given to the project's impact on the overall traffic circulation system of the neighborhood and the Town. All proposed traffic access ways shall be adequate but not excessive in number, adequate in width, grade and alignment and visibility, and sufficiently separated from street intersections and

other places of public assembly, and shall meet other similar safety considerations. No undue traffic congestion or hazard will be created.

- h. Adequacy and arrangement of pedestrian traffic access and circulation, including, but not solely limited to, separation of pedestrians from vehicular traffic, control of intersections and overall pedestrian convenience; where appropriate, consideration of access and facilities for bicycles.
- i. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs. As much as it is possible, consideration should be given to noise sources, privacy, prevailing wind directions and seasonal sun movements when locating structures, patios and open spaces on parcels, exhaust fans and outdoor waste disposal locations and to ensuring consistency and compatibility of new development with the rural and small town character of Athens.
- j. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and or noise deterring buffer between the project and adjoining properties. Natural vegetation, especially mature trees are encouraged to remain on the property. All parking and service areas shall be reasonably screened at all seasons of the year from the view of adjacent residential lots and streets and the general landscaping of the site shall be in character with that generally prevailing in the neighborhood. Existing trees 12 inches or more in diameter at breast height (dbh) shall be preserved to the maximum extent practical.
- k. In the case of an apartment house or multiple-dwelling complex, the adequacy of usable open space for playgrounds and informal recreation.
- l. Adequacy of provisions for the disposal of stormwater and drainage, sanitary waste and sewage, providing water supply for both fire protection and general consumption, solid waste disposal and snow removal storage areas.
- m. Protection of adjacent properties against noise, glare, unsightliness or other objectionable features.
- n. Retention of existing trees and vegetation for protection and control of soil erosion, drainage, natural beauty and unusual or valuable ecology.
- o. Such use is suitably located in relation to transportation, water and sewerage requirements of this chapter, or where not specifically required, that such facilities are otherwise adequate to accommodate anticipated use.
- p. The character of the town, neighborhood and values of surrounding property are safeguarded.
- q. Historic and natural resources. The proposed use shall be designed and shall be carried out in a manner that protects historic and natural environmental features on the site under review and in adjacent areas. In reviewing the plans, the Board shall give consideration to the historic or architectural value and significance of the

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structure and its relationship to the historic value of the surrounding area. In addition, the Planning Board shall review for and ensure compatibility of new structures with existing buildings onsite and in the area.

- r. Size and scale. The location and size of such use, the nature and intensity of operations involved in or conducted in connection with the use, the size of the site in relation to the use, its site layout and its relation to existing and future access streets shall be such that both pedestrian and vehicular traffic will not be hazardous or inconvenient to or incongruous with said residence district or conflict with the normal traffic of the neighborhood.
- s. In or adjacent to a residence district. In addition to the above criteria, in the case of any use located in or directly adjacent to a residence district:

[1] The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, the size of the site in relation to the use, its site layout and its relation to existing and future access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to or incongruous with said residence district or conflict with the normal traffic of the neighborhood.

F. Standards applicable to specific uses.

- (1) See sections 180-43 to 50 for standards required for specific uses.

G. Fees and Costs. An application for a special use permit shall be accompanied by an application fee as set by the Town Board. All application fees are in addition to any required escrow fees, and do not cover the cost of environmental review. The applicant shall be responsible for the total cost of environmental reviews that are determined to be necessary to meet the requirements of the State Environmental Quality Review Act (SEQRA). If the Board requires professional review of the application by a designated private planning, engineering, legal, or other consultants, or if it incurs other extraordinary expense to review documents or conduct special studies in connection with the proposed application, reasonable fees reasonable and necessary costs incurred by the Planning Board for professional review of an application shall be charged to the applicant pursuant to Chapter 153 of the Athens Town Code.

H. Procedures. Within 62 days of receipt of a complete application, the Planning Board shall hold a public hearing. Notice of the public hearing shall be published in the official newspaper at least ten (10) days prior to the date set for public hearing. In addition, not less than (10) days before the date of the hearing (not counting the date of the hearing, written notice of the public hearing shall be mailed to the owners of all property abutting the exterior boundaries of the land involved in the application, and to all other landowners having property located within 500 feet of the exterior boundaries of the land involved in the application, as the names of said owners appear on the last completed assessment roll of the Town. The notice shall include the name of the project, the location of the project site, and the date, place, time and subject of the public hearing at which the site plan will be reviewed. If an application for special use permit approval contains an agricultural data statement, written notice of such

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application, including a description of the proposed project and its location, shall be mailed to the owners of land as identified by the applicant in the agricultural data statement.

- (1) Notice to County Planning Board. At least ten (10) days before such hearing, the Planning Board shall mail notices thereof to the county planning board as required by section 239-m of the General Municipal Law.
- (2) Time of decision. The Planning Board shall decide upon the special use permit application within 62 days after the close of the public hearing, subject to compliance with the requirements of SEQRA and the General Municipal Law sections 239-l. and 239-m. In rendering its decision the Board shall approve, disapprove or approve with modifications and conditions the special use permit application. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Board. The decision of the Board shall be filed in the office of the Town Clerk within five business days of the date such decision is rendered and a copy thereof shall be mailed to the applicant.

ARTICLE V

Planned Unit Development

§ 180-57. Intent.

It is the intent of this planned unit development (PUD) article to provide flexible land use and design regulations through the use of performance criteria so that small- to large-scale residential neighborhoods or portions thereof may be developed within the Town that incorporate a variety of residential types and contain both individual building sites and common property which is planned and developed as a unit. Such a planned unit is to be designed and organized so as to be capable of satisfactory use and operation as a separate entity without necessarily needing the participation of other building sites or other common property in order to function as a neighborhood. This article specifically encourages common innovations in residential development so that the growing demands for housing at all economic levels may be met by greater variety in type, design and siting of dwellings and by the conservation and more efficient use of land in such developments.

§ 180-58. Objectives.

In order to carry out the intent of this article, a PUD shall achieve the following objectives:

- A. A maximum choice in the types of environment, occupancy tenure (e.g., cooperatives, individual ownership, condominium and leasing), types of housing, lot sizes and community facilities available to existing and potential Town residents at all economic levels.
- B. More usable open space and recreation areas.
- C. The preservation of trees, outstanding natural topography and geologic features and prevention of soil erosion.
- D. A creative use of land and related physical development which allows an orderly transition of land but that maintains the rural character of Athens.
- E. An efficient use of land resulting in smaller networks of utilities and streets and thereby lower housing costs.
- F. A development pattern in harmony with the objectives of the Comprehensive Plan. H. A more desirable environment than would be possible through the strict application of other articles of this chapter.

§ 180-59. General PUD Requirements.

- A. Minimum area. Under normal circumstances, the minimum area required to qualify for a planned unit development district shall be 100 contiguous acres of land. Where the applicant can demonstrate that the characteristics of the applicant's holdings will meet the objectives of this article, the Town Board, with the advice and comment of the Planning Board may consider projects with less acreage.
- B. Ownership. The tract of land for a project may be owned, leased or controlled either by a single person or corporation or by a group of corporations. An application must be filed by the owner or jointly by owners of all property included in the project. In the case of multiple

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ownership, the approved plan shall be binding on all owners.

- C. Location of PUD district. The PUD district shall be applicable to any area of the Town where the applicant can demonstrate that the characteristics of the applicant's holdings will meet the objectives of this article.
- D. Permitted uses. All uses within an area designed as a PUD district are determined by all the provisions of this section and the approved plan of the project concerned.
- (1) Residential uses. Residences may be of any variety of types. In developing a balanced community, the use of a variety of housing types shall be deemed most in keeping with this article.
 - (2) Accessory commercial service and other nonresidential uses. Commercial, service and other nonresidential uses may be permitted (or required) where such uses are scaled primarily to serve the residents of the PUD. The following proportions are deemed to be in keeping with this intent under normal circumstances:
 - a. Where the PUD contains 100 or more dwelling units, a maximum of 2,400 square feet of floor area for every 100 dwelling units may be used for limited commercial and/or service uses. Such commercial or service area may be in separate buildings or incorporated within two-family structures or in suitable combinations of these alternatives.
 - b. Where the PUD contains 500 or more dwelling units, a maximum of one acre of land for every 100 dwelling units may be used for commercial and/or service purposes.
 - c. Where the PUD contains 1,000 or more dwelling units, five acres of land for every 100 dwelling units may be used for compatible industry in addition to the permitted commercial and services uses.
 - (3) Resorts, located in the Green Lake Watershed Overlay District.
 - (4) Customary accessory or associated uses, such as private garages, storage spaces, recreational and community activities, churches and schools, shall also be permitted as appropriate to the PUD.
- E. Intensity of land use. Because land is used more efficiently in a PUD, improved environmental quality can often be produced with a greater number of dwelling units per gross building acre than usually permitted in traditionally zoned districts. The Town Board shall determine in each case the appropriate land use intensity or dwelling unit density for individual projects. The determination of land use intensity rating or dwelling unit densities shall be completely documented, including all facts, opinions and judgments justifying the selection of the rating or density, including how the objectives of the Comprehensive Plan are maintained.
- F. Common property in the PUD. Common property in the PUD is a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites. When common property exists, the ownership of such common property may be either public or private. When common property exists in private ownership, satisfactory arrangements shall be made for the improvement, operation and maintenance of such common property and facilities, including

private streets, drives, service and parking areas and recreational and open space areas.

§ 180-60. PUD Application Procedure And Approval Process.

- A. General. Whenever any planned unit development is proposed, before any permit for the erection of a permanent building in such planned unit development shall be granted and before any subdivision plat of any part thereof may be filed in the office of the Greene County Clerk, the developer or the developer's authorized agent shall apply for and secure approval of such planned unit development in accordance with the following procedures.
- B. Procedure.
- (1) Town Board Approval: The establishment of a Planned Unit Development in the Town of Athens is a legislative act, similar to a rezoning. As a consequence, the establishment of a Planned Unit Development requires the approval of the Town Board. Because the establishment of a Planned Unit Development is a legislative act, the Town Board has the same amount of discretion in deciding whether to adopt a Planned Unit Development proposal as it does for any other legislative act. The Town Board may adopt a Planned Unit Development only if it complies with the standards set in this local law and is in accordance with the letter and spirit of the adopted Comprehensive Plan of the Town and Village of Athens.
 - a. Creation of a Planned Unit Development is subject to the State Environmental Quality Review Act (Article 8 of the New York State Environmental Conservation Law).
 - b. The Town Board shall, prior to establishing a Planned Unit Development, submit such proposal to the Town of Athens Planning Board and receive a recommendation from said Board. The Planning Board's review at this time shall not be a full site plan or subdivision review, but oriented to whether such proposed PUD is consistent with the Comprehensive Plan of the Town and should be established. The Town Board may also, at their discretion, consult with any engineer, attorney, planner, or other such professional at the applicant's expense.
 - c. The Town Board may, after receiving a recommendation from the Planning Board, approve the general outline of the proposed PUD. This approval shall include establishment of the uses and densities that are allowable in the Planned Unit Development as well as whether they are permitted uses or uses subject to Special Use Permits and site plan approval.
 - (2) Planning Board Approval: The Town Board adoption of a Planned Unit Development does not constitute subdivision, site plan or special permit approval. Once the general development plan of the PUD is approved, it is then the responsibility of the Planning Board to approve site plans, subdivisions, and special use permits (if applicable) for the approved plan.
 - (3) Application Requirements: The application for a Planned Unit Development and six copies shall be submitted to the Town Clerk at least twenty business days before the next meeting of the Town Board. The application shall consist of all materials outlined in Section 180 60 (B).

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- (4) Review of Application: The Town Board may engage experts, including but not limited to professional planners, architects, attorneys and engineers in reviewing the Planned Unit Development proposal. The reasonable expense of engaging such experts shall be charged to the applicant.
- (5) Within 31 days of receipt of the application, the Town Board shall refer the application, sketch plan and EAF to the ~~Town~~-Planning Board. The ~~Planning~~Town Board ~~will~~shall also forward a copy of the application, sketch plan and EAF to the Greene County Planning Board pursuant to General Municipal Law § 239-m. However, if the Town Board determines that the proposal does not merit review because it does not meet the objectives of this local law or the Town's Comprehensive Plan, it shall so notify the applicant, shall not refer the application to the Planning Board or the County Planning Board, and no further action on the application shall be taken.
- (6) Planning Board Procedures: The Planning Board shall provide to the Town Board an advisory opinion on the proposed Planned Unit Development after receiving a complete application for a Planned Unit Development and before the next meeting of the Town Board following the Planning Board's receipt of the Planned Unit Development application. Alternatively, the Planning Board may request additional information reasonably related to the Planned Unit Development application. If the Planning Board requests additional information, its' time to render an advisory opinion is extended to the next meeting of the Town Board following receipt of such additional information. The time of receipt of such information shall be deemed to be the date of the regular meeting following submission of the information to the Planning Board. The Planning Board may call upon the County Planning Department or Board, the Soil Conservation Service and any other public or private consultants that it feels are necessary to provide a sound review of the proposal. The advisory opinion shall contain a report outlining the following:
- a. A report that includes a recommendation to the Town Board that a public hearing be held for the purpose of considering PUD districting or a recommendation that the Town Board reject the PUD application. This opinion shall be based on the following findings which shall be included as part of the report:
 - [1] How the proposal conforms to the Comprehensive Plan.
 - [2] How the proposal meets the intent and objectives of a planned unit development.
 - [3] That the proposal is conceptually sound in that it meets a community need and it conforms to accepted design principals in the proposed functional roadway system, land use configuration, open space system, drainage system and scale of the elements, both absolutely and to one another.
 - [4] That there are adequate services and utilities available or proposed to be made available in the construction of the development.
 - b. An unfavorable report shall clearly state the reasons and, if appropriate, point out to the applicant what might be necessary in order to receive a favorable report.

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- (7) Public Hearing: The Town Board shall not vote to approve a Planned Unit Development until it has held at least one public hearing on the application following the submission of a complete application, receipt of the Planning Board's recommendations on the application, and has met the referral requirements of 180-60 (~~(B)(5)~~ and (B)(6)).
- (8) Adoption of Planned Unit Development: The Town Board shall act on an application to establish a Planned Unit Development within ninety days following receipt of the Planning Board's recommendations. The date of receipt of the Planning Board's recommendations shall be deemed to be the first regular meeting of the Town Board following the Town Clerk's receipt of the Planning Board's recommendations. The Town Board's failure to act on a Planned Unit Development application within this period shall not be deemed to constitute a default approval of the application. The Town Board may adopt a Planned Unit Development only after following the procedures described above and making written findings regarding each of the standards set forth above for adoption of a Planned Unit Development. The approval shall include a list of permitted, Special Use Permitted uses and uses requiring site plan review and any other minimum land use standards that the Town Board deems appropriate.

C. Role of the Planning Board after Adoption of a Planned Unit Development.

The Planning Board's role after adoption of a Planned Unit Development by the Town Board is to review site plans, subdivisions, and Special Use Permits for uses in the Planned Unit Development pursuant to the requirements for those approvals in this local law and in the Town of Athens Subdivision Law.

D. PUD Sketch Plan.

- (1) A sketch plan shall be prepared and be approximately to scale, though it need not be to the precision of a finished engineered drawing, and it shall clearly show the following information:
- a. The location of the various uses and their areas in acreage.
 - b. The general outlines of the interior roadway system and all existing rights-of-way and easements, whether public or private.
 - c. Delineation of the various residential areas, indicating for each such area its general extent, size and composition in terms of total number of dwelling units, approximate percentage allocation by dwelling unit type (i.e., single-family detached, duplex, townhouse, garden apartment or high rise) and general description of the intended market structure (i.e., luxury, middle income, moderate income, elderly units, family units, etc.), plus a calculation of the residential density in dwelling units per gross acre (total area including interior roadways) for each such area.
 - d. The interior open space system.
 - e. The overall drainage system.
 - f. Principal ties to the community at large with respect to transportation, water supply and sewage disposal.

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- g. General description of the provision of other community facilities, such as schools, fire protection services and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated.
 - h. A location map showing uses and ownership of abutting lands.
 - i. Slope map overlay showing areas over 15% but less than 25% and showing slopes over 25%.
 - j. Topographic map showing contour intervals of not more than five feet elevation.
 - k. Vegetation map overlay clearly showing types of vegetation.
 - l. Soils map overlay.
 - m. Surface to bedrock map overlay.
 - n. Natural drainways map overlay.
 - o. Natural features overlay showing other significant features, vistas, areas subject to flooding, erosion, etc.
- (2) In addition, the following documentation shall accompany the sketch plan:
- a. Evidence of how the developer's particular mix of land uses meets existing community demands. (Note: Evidence as to demands may be in the form of specific studies or reports initiated by the developer or in the form of references to existing studies or reports relevant to the project in question.)
 - b. Evidence that the proposal is compatible with the goals of the official Comprehensive Plan, if any.
 - c. General statement as to how common open space is to be owned and maintained.
 - d. If the development is to be staged, a general indication of how the staging is to proceed. Whether or not the development is to be staged, the sketch plan of this section shall show the intended total project.
 - e. Evidence of any sort in the applicant's own behalf to demonstrate his or her competence to carry out the plan and his or her awareness of the scope of such a project, both physical and financial. (Evidence as to demands may be in the form of specific studies or reports initiated by the developer or in the form of references to existing studies or reports relevant to the project in question.)
 - f. Evidence that the conservation standards of § 180-51 can be met.
- E. Referral
- (1) The Town Board shall refer the application to the County Planning Board for its analysis and recommendations, and the Town Board shall also refer the application to the Town Engineer for his or her review.
- a. The Town Board shall give the County Planning Board at least 30 days to render its report, and within 62 days after the public hearing the Town Board shall render its decision on the application.

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- b. The Town Engineer shall submit a report to the Town Board within 30 days of the referral, duly noting the feasibility and adequacy of those design elements under his or her sphere of interest. This report need only concern itself with general conceptual acceptance or disapproval, as the case may be, and in no way implies any future acceptance or rejection of detailed design elements as will be required in the later site plan review stage. The Town Engineer may also state in his or her report any other conditions or problems that must be overcome before consideration of acceptance on his or her part.
- F. Zoning for planned unit development.
- (1) If the Town Board grants the PUD districting, the Zoning Map shall be so notated. The Town Board may, if it feels it necessary in order to fully protect the public health, safety and welfare of the community, attach to its zoning resolution any additional conditions or requirements for the applicant to meet. Such requirements may include, but are not confined to, visual and acoustical screening, land use mixes, order of construction and/or occupancy, circulation systems, both vehicular and pedestrian, availability of sites within the area for necessary public services, such as schools, firehouses and libraries, protection of natural and/or historic sites and other such physical or social demands. The Town Board shall state at this time its findings with respect to the land use intensity or dwelling unit density as called for in § 180-59(E).
 - (2) PUD districting shall be conditional upon the following:
 - a. Securing of final site plan approval in accordance with the procedures set forth in § 180-61.
 - b. Compliance with all additional conditions and requirements as may be set forth by the Town Board in its resolution granting the PUD district.
- G. Reasonable and necessary costs incurred by the Planning Board, Zoning Board of Appeals or Town Board for professional review of an application shall be charged to the applicant pursuant to Chapter 153 of the Athens Town Code.

§ 180-61. PUD Site Plan Approval Process.

All site plan approval procedures and standards shall be met pursuant to § 180-55.

- A. Staging. If the applicant wishes to stage his or her development and he or she has so indicated as per § 180-60 D(2)(d), then the applicant may submit only those stages he or she wishes to develop for site plan approval in accordance with his or her staging plan. Any plan which requires more than 24 months to be completed shall be required to be staged and a staging plan must be developed. At no point in the development of a PUD shall the ratio of nonresidential to residential acreage or the dwelling unit ratios between the several different housing types for that portion of the PUD completed and/or under construction differ from that of the PUD as a whole by more than 20%.

§ 180-62. Other PUD Regulations.

- A. Regulation after initial construction and occupancy. For the purposes of regulating the development and use of property after initial construction and occupancy, any changes other

than use changes shall be processed as a special permit request to the Planning Board. Use changes shall also be in the form of a request for special permit, except that Town Board approval shall be required. It shall be noted, however, that properties lying in the planned unit development districts are unique and shall be so considered by the Planning Board or Town Board when evaluating these requests, and maintenance of the intent and function of the planned unit shall be of preliminary importance.

- B. Site plan review. The site plan review provisions in the case of a subdivision shall not obviate the necessity for the applicant to meet the provisions of §§ 276 and 277 of the Town Law in conformance with the provisions of Chapter 154, Subdivision of Land. No building and zoning permits shall be issued for excavation or construction within a planned unit development district until improvements are installed or a performance bond(s) posted in accordance with the same procedures as provided in § 277 of the Town Law relating to subdivisions of land and any other requirements as may be imposed as conditions of Town Board zoning approval for a planned unit development district.

ARTICLE VI

Cluster and Conservation Development

§ 180-63. Purpose.

- A. The purpose of this article is to permit variation in lot size and housing type in suitable areas in order to encourage flexibility of design, to enable land to be developed in such a manner as to promote its most appropriate use, to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic qualities of open space, in accordance with § 278 of the New York State Town Law.
- B. This purpose is achieved by permitting lot sizes to be reduced in a subdivision tract. However, the overall density allowed in a clustered/conservation subdivision shall not exceed that which is otherwise permitted in the applicable zoning district. There shall be a minimum of 50% of the land preserved as permanent open space for the use and enjoyment of the residents of the area. However, if the Town of Athens grants a density bonus as an incentive to encourage use of cluster and conservation subdivisions, the density may be increased pursuant to § 180-13 (Modification of Density). Density bonus units have to conform to the same layout requirements as all other units within the clustered subdivision.

§ 180-64. Applicability, General Conditions And Requirements.

- A. Applicability. If a subdivider makes written application to the Planning Board for use of this procedure, the Planning Board is hereby empowered to implement these provisions at its discretion if in the Board's judgment its application at the particular location is desirable and would contribute to the general well-being of the neighborhood and community and would benefit the Town. The Planning Board is authorized to require adherence to the regulations of Article VI (Clustered and Conservation Subdivision) for any subdivision applications in the Ru, Ag, OS and districts, where, in the opinion of the Planning Board during SEQRA review, the purposes of this Chapter cannot be met using conventional subdivision methods. The following conditions may warrant requirement of a clustered or conservation subdivision layout:
- (1) State and/or federal freshwater wetlands occupy 25% or more of the site.
 - (2) Slopes of greater than 20% occupy 25% or more of the site.
 - (3) Open water occupies 25% or more of the site.
 - (4) The site contains a Flood Plain or Flood hazard area as mapped by the Federal Emergency Management Agency's Flood Insurance Maps.
 - (5) The site contains a Critical Environmental Area as determined by the Town, Greene County, or the Department of Environmental Conservation.
 - (6) The site contains ~~an identified a~~ scenic view or scenic ~~vistas~~vista, as may be identified in the Comprehensive Plan, a scenic inventory, or other adopted Town planning document.

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- (7) The lot or parcel contains an identified critical habitat or a known endangered species as determined by the Department of Environmental Conservation Natural Heritage Program or through a field study.
- B. When an applicant includes only a portion of a landowner's entire tract, a sketch layout according to this section shall be included showing future potential subdivision of all the contiguous lands belonging to the landowner to ensure that subdivision may be accomplished in accordance with this section. Subdivision and review of the sketch plan of those locations at this stage shall not constitute approval of the future subdivision shown thereon.
- C. Permitted, accessory and special permit uses. Permitted, accessory and special permit uses within a cluster/conservation subdivision shall be the same as those otherwise allowed in the zoning district in which the development is located.
- D. Dimensional standards. Within the framework of limitations set forth in this section of the law, the Planning Board shall review all proposed modifications of lots, bulk and other requirements which it has determined are necessary or appropriate to properly accomplish the purposes of this law. Lots shall be arranged in a way that preserves open space as conservation as described in this section.
- (1) In all Zoning districts, a cluster/conservation subdivision must preserve at least fifty (50%) percent of the tract's acreage as open space land. Parking areas and roads shall not be included in the calculation of the minimum required open space. All conserved lands shall be permanently restricted from future subdivision and development.
- (2) The builder or developer shall include variations in the principal building position and orientation, but shall observe, as practical, the following minimum standards: Front yard setback of 25 feet; Rear yard setback of 40 feet; Side yard setback of 20 feet separation for principal buildings; building height of 35 feet.
- (3) Maximum impervious coverage. No more than 30% of any given acre ~~shall~~may be covered with impervious surface in the form of access drives, parking areas or structures unless such coverage meets the overall planning goals of this local law.
- (4) Minimum lot size. ~~The minimum individual lot size~~sizes for developments requiring individual wells and septic systems shall be ~~equal to that required~~the minimum size necessary to meet the requirements of water and septic systems as determined by the ~~Greene Town Engineer, the Planning Board Engineer, or any other agency with regulatory authority, such as a County Health Department or the New York State Department of Health to meet standards for water and septic system approvals, if applicable.~~ The average lot size, calculated by including only new buildable acres, and not any preserved open spaces for developments with central water and sewer shall be 1/2 acre.
- E. Unit Mix. The clustered or conservation subdivision design may include a mix of single-family and multi-family dwellings as a means of achieving housing diversity and preserving open space if such multi-family dwellings are allowed in the district. The number of multi-family units shall be limited to not more than one-third (1/3) of the total number of dwelling units. Multi-family structures shall not exceed 5 units each. Single-wide mobile homes shall not be permitted within any residential cluster development as governed by this section.

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- ~~F. — Preserved open space may be included as a portion of one or more large lots, or may be on a separate open space lot. Such open space may be owned by a homeowner's association, private landowner(s), a non-profit organization or a State, County or local government provided it is protected from development by a conservation easement or deed restriction. When a tract is held in multiple ownership, it shall be planned as a single entity with common authority and common responsibility. A plan for landscaping and other development of the common open space area shall be reviewed and approved by the Planning Board.~~
- G. Uses for Open Space. The Planning Board may approve uses for open space within a clustered/conservation subdivision, and these uses will be clearly indicated on the final map. The following are permitted uses for preserved open space areas:
- (1) The Planning Board may approve recreational uses such as wooded park areas, bridle paths, hiking trails, etc. Areas for active recreation which are to contain substantial improvements, impervious surfaces and other alteration from their natural state shall not constitute open space hereunder.
 - (2) The Planning Board may approve conservation uses such as open woodland, wetlands, slopes, or escarpments.
 - (3) The Planning Board may approve cultural aspects, such as historic places and buildings, archaeological sites, parks, and such open spaces which will assure that each of the above cultural aspects are adequately protected in the public interest.
 - (4) Where active agriculture or horticultural uses (as allowed and defined in this Chapter) are taking place or could take place, structures shall be placed on the least productive portions of that land in order to preserve the ability to utilize prime farmland soils and soils of statewide importance that are best suited for agriculture.
 - (5) Water supply and sewage disposal systems and stormwater detention areas designed, landscaped, and available for uses as part of the conservation lands.
 - (6) Rights-of-way, easements for drainage, access, sewer or water lines or other public purposes.
- H. A mechanism for the long-term ownership and maintenance of common open space shall be provided, subject to the approval of the Town Planning Board during the subdivision review process. Similar provision shall be made for the long-term ownership and maintenance of roadways, drainage ways, utilities and other improvements within the cluster development.
- I. Building Design Variation: The developer shall prevent monotonous streetscapes by adding variations in the principal building architecture.
- J. There shall be only one principal building per building lot.
- K. The minimum area required to qualify for this procedure shall be six contiguous acres of land.
- L. In addition to the foregoing, a cluster development subdivision plot may be approved only if

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the Planning Board determines that:

- (1) Such development will not be detrimental to the health, safety or general welfare of persons residing in the vicinity or injurious to property or improvements within its proximity;
- (2) The proposed development is in conformity with the objectives of the Comprehensive Plan; and
- (3) The gross density will be no greater than if the tract were developed in accordance with the existing zoning requirements unless a density bonus has been granted by the Town.

M. Design Process for Cluster/Conservation Subdivisions.

- (1) Determine Lot Count pursuant to 180-12.
- (2) Step 1: Delineation of Open Space Lands. Proposed open space lands shall be designated as follows:
 - a. Primary Conservation Areas shall be considered constrained lands and shall be delineated comprising open water, streams, floodplains, and wetlands, and slopes over 20% and shall be designated on a map. Primary Conservation Areas shall be excluded from acreage used for the lot count calculations.
 - b. Secondary Conservation Areas shall be delineated and designated on a map and shall be considered as open space lands. Secondary Conservation Areas include special features of the property that would ordinarily be overlooked or ignored during the design process such as agricultural lands, woodlands, significant natural areas and features, stone walls, hedgerows, meadows, historic structures and sites, historic rural corridors, scenic viewsheds, and trails. In delineating Secondary Conservation Areas, the applicant shall prioritize natural and cultural resources on the tract in terms of their highest to least suitability for inclusion in the proposed open space, in consultation with the Planning Board to create a prioritized list of resources to be conserved. On the basis of those priorities and practical considerations given to the tract's configuration, its context in relation to resource areas on adjoining and neighboring properties, and the applicant's subdivision objectives, Secondary Conservation Areas shall be delineated to meet at least the minimum percentage requirement of 50% for open space lands. These features shall be clearly noted as well as the types of resources included within them on the map. Calculations shall be provided indicating the applicant's compliance with the acreage requirements for open space areas on the tract.
 - c. The primary and secondary conservation areas, together, constitute open space areas to be preserved, and the remaining land is the potential development areas.
- (3) Location of House Sites. Building envelopes shall be tentatively located within the potential development areas. House sites should generally be located not closer than 100 feet from Primary Conservation Areas and 50 feet from Secondary Conservation Areas, taking into consideration the potential negative impacts of residential development on such areas.
- (4) Align Streets and Trails. After designating the building envelopes, a street plan shall be

designed to provide vehicular access to each house, complying with the standards identified herein and bearing a logical relationship to topographic conditions. Impacts of the street plan on proposed open space lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands and traversing slopes exceeding 20%. Existing and future street connections are encouraged to eliminate the number of new cul-de-sacs to be developed and maintained, and to facilitate access to and from homes in different parts of the tract and adjoining parcels. Cul-de-sacs are appropriate only when they support greater open space conservation or provide extensive pedestrian linkages.

- (5) Draw Lot Lines. Upon completion of the preceding three steps, lot lines are drawn as required to delineate the boundaries of individual residential lots.

N. Site Design Criteria

- (1) Residential structures in a clustered or conservation subdivision should be located according to the following guidelines, which are listed in order of significance (some of which may conflict with each other on a particular site, in which case, the Planning Board may use its discretion to resolve such conflicts):

- a. On the least fertile agricultural soils and in a manner which maximizes the usable area remaining for agricultural use;
- b. Away from the boundaries of any preserved farm, to reduce conflicting uses in areas where farmers have made long-term commitments to continue to farm;
- c. In such a manner that the boundaries between house lots and active farmland are well buffered by vegetation, topography, roads or other barriers to minimize potential conflict between residential and agricultural uses;
- d. To avoid disturbance to the existing environmental, cultural and scenic features noted above;
- e. To be as visually inconspicuous as practical when seen from state, county and local roads, and particularly from designated scenic routes;
- f. Next to other residences or building lots on adjacent properties;
- g. To minimize the perimeter of the built area by encouraging compact development and discouraging strip development along roads;
- h. On suitable soils for subsurface sewage disposal (where applicable);
- i. In a manner that allows new structures to be visually absorbed by the natural landscape.

- (2) Open space standards:

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- a. The required open space land consists of a combination of Primary Conservation Areas and Secondary Conservation Areas. The proposed subdivision design shall strictly minimize disturbance of these environmentally sensitive areas. The applicant shall also demonstrate that such features will be protected by the proposed subdivision plan.
- b. Open space lands shall be laid out in general accordance with the Town's *Comprehensive Plan* to better enable an interconnected network of open space and wildlife corridors. Open space lands shall also be laid out in such a manner that preserves ecological systems that may be present on the site including, but not limited to preserving wetlands and their associated upland habitats.
- c. Active agricultural land with farm buildings may be used to meet the minimum required open space land. Access to open space land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations. Land used for agricultural purposes shall be buffered from residential uses, either bordering or within the tract, by a setback as per 180-25.
- d. Open space land shall be contiguous to create a critical mass of land available for agriculture or left in a natural state. Open space lands shall be designated as a conservation lot owned in common, or designated and included as part of one or more lots. No individual parcel of common open space shall be less than one (1) acre except as to roadway median strips, traffic islands, walkways, trails, courtyards, play areas, recreation facilities, drainage ways leading directly to streams, historic sites or unique natural features requiring common ownership protection.
- e. Any house lot or lands on house lots over five acres in size may be used for meeting the minimum required open space land provided that there is a permanent restriction enforceable by the Town that states the future use such as undisturbed wildlife habitat, managed field, or managed forest and prevents destruction, inappropriate use, or development of that portion of the open space. Any house lot less than five acres does not qualify as open space. No land within front or side yards shall be considered as qualifying as open space.
- f. The required open space may be used for community septic systems.
- g. Stormwater management ponds or basins may be included as part of the minimum required open space, as may land within the rights-of-way for underground utilities.
- h. Active recreation lands or uses such as golf courses, ball fields, parks, pool areas, etc. shall not be considered part of the required open space area. Such recreational lands with access only to residents shall not be counted towards the open space requirements, but shall be counted towards any recreation land requirement as per the Town of Athens Subdivision Law.

(3) Other Layout Criteria

- a. The building area of lots shall not encroach upon Primary Conservation Areas.

- b. Views of house lots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping.
 - c. House lots shall generally be accessed from interior streets, rather than from roads bordering the tract. New intersections with existing public roads shall be minimized. Although two access ways into and out of subdivisions containing twenty (20) or more dwellings are generally required for safety, proposals for more than two entrances onto public roads shall be discouraged if they would unnecessarily disrupt traffic flow or unduly impact the environment.
 - d. Open space shall be directly accessible or viewable from as many home sites as possible.
 - e. The layout shall leave scenic views and vistas unblocked or uninterrupted, particularly as seen from public thoroughfares. A deep no-build, no-plant buffer is recommended along the road where those views or vistas are prominent or locally significant.
 - f. The layout shall maintain or create a buffer of natural native species vegetation of at least 100 feet in depth adjacent to wetlands and surface waters, including creeks, streams, wetlands, springs and ponds.
 - g. Design around and preserves sites of historic, archeological or cultural value insofar as needed to safeguard the character of the feature.
 - h. Provide open space that is contiguous.
 - i. Protect wildlife habitat areas of species listed as endangered, threatened, or of special concern by the New York State Department of Environmental Conservation.
- O. Streets and driveways.
- (1) Common driveway access may be provided. A pedestrian circulation and/or trail system shall be installed sufficient for the needs of residents, unless waived by the Planning Board.
 - (2) Cluster/conservation subdivision streets shall meet any Town Highway Specifications. Where appropriate, the Planning Board shall work with the Highway Department to ensure that new roads do not impact or detract from the rural and environmental character of a cluster/conservation subdivision.
 - (3) From an aesthetic and speed control perspective, curving roads are preferred in an informal rural cluster to avoid long straight segments. Shorter straight segments connected by 90 degree and 135 degree bends are preferred in a more formal or traditional arrangement such as in a hamlet.
 - (4) Whenever appropriate, street systems should produce terminal vistas of open space in accordance with the conservation emphasis of the subdivision design and to positively contribute to the Town's open space goals.

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- (5) The use of reverse curves should be considered for local access streets in cluster subdivisions in conjunction with long horizontal curve radii (at least 250 feet) and where traffic speeds will not exceed 30 mph.
- (6) Single-loaded streets are encouraged alongside conservation areas to provide views of the conservation lands for residents and visitors.
- (7) Landscape common areas and both sides of new streets with native species of shade trees.

P. Permanent protection of open space.

- (1) All required open space shall be restricted from further subdivision through one of the following:
 - a. A conservation easement, in a form acceptable to the Town and recorded at the County Clerk's Office.
 - b. A declaration of covenants or deed restriction, in a form acceptable to the Town and recorded in the County Clerk's Office where a conservation easement has been shown not to be practicable.

c. All conservation easements shall be noted on the subdivision map that is filed in the Greene County Clerk's office.

- (2) Open space land may be held in any form of ownership that protects its conservation values such as where the open space is owned in common by a homeowner's association (HOA). Open space may also be dedicated to the Town, County or State governments, transferred to a non-profit organization, or held in private ownership. The applicant shall provide proof that the receiving body agrees to accept the dedication. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation or agricultural value of such open space land.

- a. If the open space is to be owned by an HOA, the HOA must be incorporated before the final subdivision plat is signed. The applicant shall provide the Town with a description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions for common facilities.

- b. The open space restrictions must be in perpetuity.

~~c. If land is held in common ownership by a homeowners association, such ownership shall be arranged in a manner that real property tax claims may be satisfied against the open space lands by proceeding against individual owners and the residences they own. The HOA must be responsible for liability insurance, local taxes and the maintenance of the conserved land areas. The HOA shall have the power to adjust assessments to meet changing needs.~~

d.c. The Planning Board shall find that the HOA documents satisfy the conditions above.

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- ~~ed.~~ Membership in the HOA must be mandatory for each property owner within the subdivision and for any successive property owners in title.
- ~~fe.~~ The proposed association shall be established by the owner or applicant and shall be operating before the sale of any dwelling units in the development.
- ~~gf.~~ The association shall be responsible for liability insurance, local taxes and maintenance of open space land, recreational facilities and other commonly held facilities.
- ~~hg.~~ The association shall have adequate resources to administer, maintain, and operate such common facilities.

(3) The conservation easement, declaration of covenants or deed restriction shall permanently restrict development of the open space and shall specify the use of such space only for agriculture, forestry, recreation or similar purposes. The Planning Board shall approve the form and content of any easement, declaration, or restriction. The restriction shall be made a condition of the final plat approval. A conservation easement will be acceptable if:

- a. The conservation organization is acceptable to the Town and is a *bona fide* conservation organization as defined in Article 49 of the New York State Environmental Conservation Law.
- b. The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the conservation organization becomes unwilling or unable to continue carrying out its functions.
- c. A maintenance agreement acceptable to the Town is established between the owner and the conservation organization to insure perpetual maintenance of the open space.
- d. The conservation easement or other legally binding instrument shall permanently restrict the open space from future subdivision, shall define the range of permitted activities, and, if held by a conservation organization, shall give the Town the ability to enforce these restrictions.

Q. Maintenance Standards.

- (1) The owner of the open space shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space.
- (2) Failure to adequately maintain any improvements located on the undivided open space in reasonable condition is a violation of the zoning law. Upon appropriate authority or process, the Town may enter the premises for necessary maintenance/restoration, and the cost of such maintenance by the Town shall be assessed ratably against the landowner or in the case of an HOA, the owners of properties within the development, and shall, if unpaid, become a tax lien on such property.

R. Sewage treatment systems.

Sanitary sewage disposal systems of either an individual or community nature may be located within or extend into required open space areas, provided that subsurface sewage disposal methods are employed, all required separation distances are observed and the ownership and maintenance responsibilities associated therewith are clearly defined in agreements submitted for approval as part of the subdivision application. No application shall be approved that does not provide lot buyers with both the legal authority and the responsibility, individually or collectively, to maintain all sewer facilities on a continuing basis. This may include the creation of a special district under Articles 12 and 12-a of New York State Town Law.

- S. Reasonable and necessary costs incurred by the Planning Board for professional review of an application shall be charged to the applicant pursuant to Chapter 153 of the Athens Town Code.

ARTICLE VII

Adult Establishments

§ 180-65. Purpose and findings.

- A. Purpose. It is the purpose of this article to regulate sexually oriented businesses, hereafter referred to as "adult establishments," in order to promote the health, safety, morals and general welfare of the citizens of the Town. Eradicating and preventing neighborhood blight, and the character of the neighborhoods from adverse secondary effects associated with adult establishments which contribute to such deterioration, is a further goal of this article. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content of any speech, including sexually oriented speech. Similarly, it is not the intent nor effect of this article to restrict or deny access by adults to speech protected by the First Amendment and New York Constitution, or to deny access by the distributors and exhibitors of sexually oriented speech to their intended market. Neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.
- B. Findings. The Supervisor and members of the Town Board of the Town of Athens are all residents of the Town and represent districts in the Town or the Town at large. The Supervisor and members of the Board are familiar with the Town and the issues raised by adult establishment types of businesses throughout the country. The Supervisor and Board are also cognizant that AIDS, hepatitis and other sexually transmitted diseases are serious health concerns. Based on local knowledge and evidence concerning the impacts or "secondary effects" of adult uses on the community, as presented in hearings and in reports made available to the Board, on findings involving the effects of adult establishments and public nudity incorporated in judicial decisions such as, but not limited to: *Town of Islip v Caviglia* (73 NY2d 544 [1989]); *Stringfellow's of New York, Ltd v City of New York* (91 NY2d 382 [1998]); *City of Erie v Pap's A.M.* (146 L Ed2d 265 [2000]); *City of Renton v Playtime Theatres. Inc.* (475 US 41 [1986]); *Young v American Mini Theatres* (426 US 50 [1976]); and *Barnes v Glen Theatre, Inc.* (501 US 560 [1991]); and on studies summarized by the Town's Ad-Hoc Committee, prepared in 2002, and in other communities, including, but not limited to, Kansas City, Missouri; Newport News, Virginia; St. Paul, Minnesota; El Paso, Texas; City of New Rochelle, New York, Coxsackie, New York; Phoenix, Arizona; Indianapolis, Indiana; Austin, Texas; Seattle, Washington; and Tucson, Arizona, the Supervisor and Board find:

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- (1) Adult establishments lend themselves to ancillary unlawful and unhealthy activities that are not properly controlled by the operators of the establishments. Further, there are not adequate legal provisions making the owners of these establishments responsible for the activities that occur on their premises.
- (2) Ancillary adverse secondary effects impact the community from adult establishments, such as blight, neighborhood deterioration, increased crime rate, decreased property values, increased demand on police services, noise and general deterioration of the quality of life in surrounding neighborhoods.
- (3) Persons frequent certain adult establishments for the purpose of engaging in sexual activities within the premises of such adult establishments.
- (4) Communicable diseases may be spread by sexual activities, including, but not limited to, human immunodeficiency virus (HIV), AIDS, hepatitis B, and venereal diseases.
- (5) AIDS, HIV, hepatitis B and venereal diseases are serious health concerns in this state and country.
- (6) Adult establishments have operational characteristics which should be reasonably regulated in order to protect the substantial governmental concerns raised by the various findings herein.
- (7) A licensing procedure is an appropriate mechanism to place the burden of reasonable regulation on the owners and the operators of the adult establishments. Further, such a licensing procedure will place an incentive on the operators to see that the adult establishment is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the Town. It is appropriate to require reasonable assurances that the licensee is the actual operator of the adult establishment, and fully in possession and control of the premises and activities occurring therein.
- (8) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the adult establishment, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in assuring that the adult establishment is operated appropriately.
- (9) The barring of such individuals from association with adult uses for a period of years serves as a deterrent to and prevents conduct which leads to unwanted sexual activities.
- (10) Regulations separating the performers who appear nude or semi-nude in adult establishments from the patrons or customers protect the performers, reduce the opportunity for illegal activities between performers and patrons or customers and do not interfere with the content of any performance.
- (11) Other, less restrictive methods of addressing the problems caused by adult uses, such as more aggressive enforcement of existing penal and public nuisance laws and limiting adult-use zoning restrictions to new establishments, could not adequately address problems this article seeks to ameliorate.
- (12) There are no adult uses in the Town, so that placing adult establishment uses in the

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Light Industrial Zone will not reduce that number and will afford reasonable space for adult establishments.

- (13) The general welfare, health, morals and safety of the citizens of the Town will be promoted by the enactment of this article.

§ 180-66. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ADULT ESTABLISHMENT — A commercial establishment which is or includes an adult bookstore, adult retail store, adult eating or drinking establishment, adult theater, or other adult commercial establishment, or any combination thereof, as defined below.

- A. ADULT BOOKSTORE — A bookstore that offers printed or visual material for sale or rent to customers where a substantial portion of its stock-in-trade of printed or visual material consists of adult printed or visual material, defined as printed or visual material characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas;
- B. ADULT RETAIL STORE — A business enterprise where a substantial portion of its stock-in-trade is sexually oriented materials, leather goods which are marketed or presented in a context to suggest their use in connection with specified sexual activities and/or sexually oriented toys and novelties for sale or rent to customers;
- C. ADULT EATING OR DRINKING ESTABLISHMENT — An eating or drinking establishment which regularly features in any portion of such establishment any one or more of the following: (1) live performances which are characterized by an emphasis on specified anatomical areas or specified sexual activities; or (2) films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of specified anatomical areas or specified sexual activities; or (3) employees who, as part of their employment, regularly expose to patrons specified anatomical areas; and which is not customarily open to the general public during such features because it excludes or restricts minors.
- D. ADULT THEATER — A commercial establishment which regularly features one or more of the following: (1) films, motion pictures, videocassettes, slides, internet images, or other photographic reproductions which are characterized by an emphasis upon the depiction or description of specified anatomical areas or specified sexual activities; or (2) live performances which are characterized by an emphasis on specified anatomical areas or specified sexual activities; and which is not customarily open to the general public during such features because it excludes or restricts minors. An adult theater shall include commercial establishments where such materials or performances are viewed from one or more individual enclosures.
- E. Another adult commercial establishment is a facility, other than an adult bookstore, adult retail store, adult eating or drinking establishment, adult theater, commercial studio, or business or trade school, which features employees who, as part of their employment, regularly expose to patrons specified anatomical areas and which is not customarily open to the general public during such features because it excludes or restricts minors.

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F. Defined terms:

- (1) For purposes of Subsection A of this definition, "printed or visual materials" are books, magazines, or other printed matter, including product packaging or wrapping, or photographs, films, motion pictures, videocassettes, slides or other visual matter.
- (2) For purposes of Subsections A, B, C and D of this definition, "specified sexual activities" are: (i) human genitals in a state of sexual stimulation or arousal; (ii) actual or simulated acts of human masturbation, sexual intercourse or sodomy; or (iii) fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breast.
- (3) For purposes of Subsections A, C and D of this definition, "specified anatomical areas" are: (i) less than completely and opaquely concealed: (a) human genitals, pubic region, (b) human buttock, anus, or (c) female breast below a point immediately above the top of the areola; or (ii) human male genitals in a discernibly turgid state, even if completely and opaquely concealed.
- (4) For purposes of Subsection B of this definition, "sexually oriented materials, toys and novelties," are instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs, except medical devices approved by the Food and Drug Administration.
- (5) For purposes of Subsections C, D and E of this definition, "regularly features" or "regularly exposes" shall mean that inspections on multiple days at multiple times establish that there is occurring on a frequent, on-going basis, with the inspector observing any of the following or combination thereof: (a) observation of entertainment; (b) hours of operation; (c) posted show times; (d) advertisement(s); (e) sign(s) at the premises; (f) any other relevant indicia. Adult entertainment should be a principal form of entertainment at the establishment. For theaters, adult entertainment should be the principal purpose of the theater showing the adult material. "Regularly feature" or "regularly expose" is not intended to cover establishments that offer adult entertainment on an occasional basis.
- (6) For the purpose of Subsections A and B of this definition, a "substantial portion" of a store's stock-in-trade consists of adult printed, visual or retail material or sexually oriented materials, leather goods which are marketed or presented in a context to suggest their use in connection with specified sexual activities and/or sexually oriented toys and novelties if more than 10% of the stock-in-trade or sales and display area is devoted to adult printed, visual or retail material, sexually oriented materials, unless all of the adult printed, visual or retail material, sexually oriented toys and novelties are separated from other sales and display areas by an opaque wall at least eight feet in height with a management-controlled system of access to ensure that only persons over the age of 18 years are allowed to enter the area.
- (7) For the purposes of Subsection C of this definition, an "eating or drinking establishment" includes: (i) any portion of a commercial establishment within which food or beverages are offered for purchase or are available to or are consumed by customers or patrons, and (ii) any portion of a commercial establishment from which a portion of a commercial establishment described in (i) above is accessible by customers or patrons.

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SPECIFIED CRIMINAL ACTIVITY — Any of the following offenses, as defined in the New York State Penal Law, or any similar offenses under the criminal or penal code of other states or countries:

- A. Prostitution offenses; obscenity and related offenses; sexual performance by a child; possession or distribution of child pornography; offenses against public sensibilities; sex offenses; unlawfully dealing with a child.
- B. For which:
 - (1) Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
 - (2) Less than five years have elapsed since the date of conviction or the date of release from confinement for the last conviction, whichever is the later date, if the conviction is of a felony offense; or
 - (3) Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any two-year period.
- C. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS — Includes any of the following:

- A. The sale, lease or sublease of the business.
- B. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means.
- C. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business.

§ 180-67. Adult Establishments as Permitted Use.

- A. Adult establishments shall be permitted in the LI District, subject to the following conditions:
 - (1) Adult entertainment uses must have direct road frontage.
 - (2) Adult entertainment uses are prohibited within:
 - a. Five hundred feet of any Rr or Ru Zoning District;
 - b. Five hundred feet of any single-family, two-family, or multiple-family dwelling, including structures devoted to both residential and commercial or business purposes;
 - c. Five hundred feet of any public or private school;
 - d. Five hundred feet of any church or other religious facility or institution;
 - e. Five hundred feet of any public park, public bike path, playground or playing field,

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cemetery, civic, cultural or recreational facility;

f. Five hundred feet of another existing adult establishment.

(3) The distances provided in Subsection A(2) shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the adult entertainment use is to be located to the nearest point of the parcel of the property or land use district boundary line from which the adult entertainment use is to be separated.

(4) Adult establishments must be licensed pursuant to § 180-68 of this chapter and comply with all regulations set forth in this chapter.

B. Adult establishments are prohibited in the Rr, Ru, ~~Ru-1, Mu-c, H, Ru-385~~, Ag and OS/~~C~~ Districts.

§ 180-68. License Required.

A. It is unlawful for any person to operate an adult establishment without a valid license issued by the Town pursuant to this section.

B. Application for license.

(1) An application to operate an adult establishment must be submitted to the Town Clerk on a form provided by the Town.

(2) All applicants must be qualified according to the provisions of this section. The application may request and the applicant shall provide such information as to enable the Town to determine whether the applicant meets the qualifications established in this section.

(3) If a person who wishes to operate an adult establishment is an individual, the person must sign the application for a license as applicant. Each applicant must be qualified according to the provisions of this section, and each applicant shall be considered a licensee if a license is granted.

(4) The completed application for an adult establishment license shall contain the following information and shall be accompanied by the following documents:

a. If the applicant is:

[1] An individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is at least 18 years of age.

[2] A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any.

[3] A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers and directors, and the name of the registered corporate agent and the address of the registered office for service of process.

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- b. If the applicant intends to operate the adult establishment under a name other than that of the applicant, he or she must state the adult establishment's fictitious name and submit copies of the registration documents.
 - c. Whether the applicant has been convicted of a specified criminal activity as defined in this section, and, if so, the specified criminal activity involved, and the date, place and jurisdiction of each.
 - d. Whether the applicant has had a previous personal or business license under this section or other similar adult establishment sections from another city or county denied, suspended or revoked, including the name and location of any adult establishment for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant has been a partner in a partnership or an officer or director of a corporation that is licensed under this section whose license has previously been denied, suspended or revoked, including the name and location of the adult establishment for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
 - e. Whether the applicant holds any other personal or business licenses under this section or other similar adult establishment section from another municipality and the names and locations of any such other licensed businesses.
 - f. If the applicant is employing a manager of the establishment, the information required in Subsection B(3) and (4) of this section must be supplied for the manager and the applicant.
 - g. The location of the proposed adult establishment, including a legal description of the property, street address, and telephone number(s), if any.
- C. Issuing authority. The Code Enforcement Officer shall be the issuing authority for an adult establishment license.
- D. Granting or denial of adult establishment license.
- (1) Upon the filing of an application for an adult establishment license, the application shall be referred by the Town Clerk to the Code Enforcement Officer for an investigation to be made for compliance with this section and with applicable fire, building, zoning, health and safety codes. The investigation process shall be completed within 30 days from the date the completed adult establishment application is filed. After the investigation, the Code Enforcement Officer shall issue a license, unless it is determined that one or more of the following is true:
- a. An applicant has failed to provide information reasonably necessary for the issuance of the license or has falsely answered a question or request for information on the application form.
 - b. An applicant is under the age of 18 years.
 - c. An applicant has been convicted of a specified criminal activity.
 - d. The license is to be used for a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this section.

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- e. An applicant has had an adult establishment license, an adult establishment manager license or an adult establishment employee license revoked by the Town within two years of the date of the current application.
 - f. The premises to be used for the adult establishment is in violation of applicable fire, zoning, building, or health and safety laws and ordinances.
 - g. The license fee required by this section has not been paid.
 - h. An applicant or the proposed establishment is in violation of or is not in compliance with any of the provisions of this section.
- (2) The adult establishment license shall state on its face the name of the person or persons to whom it is granted, the expiration date and the address of the adult establishment.
- (3) Denial of a license. Denial of a license shall be subject to the restrictions set forth in this article.
- E. Fees.
- (1) Every application for an adult establishment license (whether for a new license or for renewal of an existing license) shall be accompanied by the fee established by resolution of the Town Board, on file with the Town Clerk.
 - (2) All license applications and fees shall be submitted to the Town Clerk.
- F. Inspections. An applicant shall permit representatives of the Code Enforcement Officer to inspect the premises of a adult establishment for the purpose of ensuring compliance with this section and applicable fire, building, zoning, health and safety codes, prior to its initial opening for business and at any time it is occupied or open for business.
- G. Expiration of license.
- (1) Each license shall expire on January 31 following the date of issuance and may be renewed by making application for renewal at least 30 days and not more than 45 days before the expiration date. When application for renewal is made less than 30 days before the expiration date, the expiration of the license will not be affected. (2) A license granted pursuant to this section shall be subject to annual renewal unless the Code Enforcement Officer finds information since the last time the license had been approved which would constitute grounds to deny an initial license application or that there have been violations of this section since the last time the license was approved or an accumulation of violations within the last two license years which would be grounds for suspension or revocation of the license. The renewal of the license shall be subject to the payment of the renewal fee.
 - (2) When the Code Enforcement Officer denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial.
 - (3) The denial of renewal of a license shall be subject to the procedures set forth in Subsection H of this section.
- H. Procedure for denial of license or renewal. If the investigation reveals cause to believe that a license or renewal of a license may be denied in accordance with this section, the Code

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Enforcement Officer, within 30 days after a completed application is filed, shall inform the applicant in writing, sent by first-class mail to the address provided by the applicant in the application, of the possible reasons for the denial, and provide the applicant with 10 days within which to review evidence, respond in writing and provide documentary evidence to the contrary. The Code Enforcement Officer may extend the time limit for response upon request of the applicant and for good cause. If no response is made in a timely fashion, the Code Enforcement Officer shall make a final determination within five days after the expiration of the time to reply. If response is made in a timely fashion, the Code Enforcement Officer shall make a final determination within five days after the response is received. The final determination shall be in writing and provide specific reasons for the denial. The status quo shall be maintained until the final determination is made.

- I. Suspension of licenses. A license may be suspended for a period not to exceed 90 days, after a hearing, held pursuant to the procedures in Subsection H of this section, if the hearing officer determines that a licensee has, within the preceding 12 months, violated or is not in compliance with any provision of this section.
- J. Revocation.
 - (1) A license may be revoked, after a hearing, if it is determined that a licensee has violated or is not in compliance with any provision of this section and the license has been suspended within the preceding 12 months. All hearings shall be held by a hearing officer designated by the Town Board to conduct the hearing and make a final determination. The license holder shall be permitted to be represented by counsel at the hearing, to submit evidence and summon witnesses on his/her own behalf, to inspect opposing evidence and cross-examine opposing witnesses. The burden of proof shall be upon the person bringing the charges. Compliance with the technical rules of evidence shall not be required.
 - (2) The hearing officer may also revoke a license, after a hearing, held as set forth in Subsection J(1) if he or she determines that:
 - a. A licensee, within two years, gave false or misleading information in the material submitted during the application process;
 - b. A licensee, manager or employee of a licensee has violated or is not in compliance with any section of this section within one year; or
 - c. There has been an accumulation of violations of this section within two years.
 - (3) When the hearing officer revokes a license, the revocation shall continue for two years, within which time period the licensee shall not be issued an adult establishment license.
- K. Determinations resulting from a person's background, or activities at an adult establishment, with respect to the denial, suspension or revocation of a license, which incidentally burden free expression, shall be no broader than needed to achieve Town goals. The Code Enforcement Officer is authorized to issue warning notices and/or grant conditional licenses as a means of allowing expression while curbing unwanted activities where violations are found but denial, suspension or revocation is deemed not justified.
- L. Notices. All notices required to be sent by the Town shall be in writing, sent by first-class mail to the address provided by the applicant in the application.

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- M. Prompt judicial review. Upon denial of an application, or denial of a renewal of a license, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action pursuant to Article 78 of the Civil Practice Law and Rules. The denial of a renewal of a license, or suspension or revocation of any license, shall be stayed for a period of 20 days and, if a proceeding is brought to challenge the administrative action, throughout the pendency of the proceeding in the trial court. The administrative action shall be promptly reviewed by the court.
- N. Transfer of license. A licensee shall not transfer his/her license to another, nor shall a licensee operate an adult establishment under the authority of a license at any place other than the address designated in the application.
- O. Additional regulations.
- (1) No person in or on the premises of an adult establishment shall engage in any specified sexual activities.
 - (2) No person shall appear semi-nude in or on the premises of a adult establishment unless the person is an employee who, while semi-nude, shall be on a stage or platform in the premises which is at least 18 inches above the immediate floor level and which is removed at least six feet from the nearest customer.
 - (3) No person shall appear nude in or on the premises of an adult establishment unless the person is an employee who, while nude, shall be on a stage or platform in the premises permanently anchored to the floor at least 18 inches above the floor level of the areas to which customers have access and separated from the areas to which customers have access by a continuous permanently affixed barrier at least three feet in height and located at least six feet from the areas to which customers have access, which barrier shall consist of horizontal or vertical members spaced no more than nine inches apart and no more than nine inches from the floor or the walls to which they are attached.
 - (4) No person shall be permitted or allowed to view another person in an adult establishment who is nude or semi-nude from within a room or booth in the premises which is not continuously open and visible to persons in an adjacent public area of the premises, or from a viewing area that is not at least 150 square feet in size.
 - (5) No person shall appear nude or semi-nude, or knowingly allow another to appear nude or semi-nude, in an area of an adult establishment which can be viewed from off the premises.
 - (6) No person in or on the premises of an adult establishment shall, while nude or semi-nude, touch a customer or the clothing of a customer.
 - (7) No employee in or on the premises of a adult establishment shall, while nude or semi-nude, solicit any compensation or gratuity from any customer.
 - (8) No person shall pay or give a gratuity to an employee in or on the premises of an adult establishment by giving the payment or gratuity to, or placing the payment or gratuity on the body of, or inside the clothing of, the employee, while the employee is nude or semi-nude.
 - (9) No person shall allow a person under the age of 18 years in or on the premises of an

adult establishment.

- (10) No person shall consume or possess any alcoholic beverage in or on the premises of an adult establishment, other than an alcoholic beverage legally sold in the adult establishment for on-premises consumption pursuant to the Alcoholic Beverage Control Law of the State of New York.
- (11) No person shall bring any animal, except a guide dog, hearing dog, service dog or police work dog, in or on the premises of an adult establishment.
- (12) No employee, whether clothed or unclothed, shall sit in the lap of or lay or lean against a customer and rub his or her genital or pubic area, or her female breasts, against the customer; nor, whether clothed or unclothed, allow the customer to touch his or her genital or pubic area, or her female breasts.
- (13) The licensee or his/her manager, as identified in the approved license application, must be present at the adult establishment during business hours.

§ 180-69. General Provisions.

- A. Conflicting provisions. The provisions of this article shall be controlling in the event of any conflict between the provisions of this article and any other provisions of the Town Code.
- B. Penalties for offenses. Any person who violates this article shall be subject to the penalties set forth in this chapter, and the Town shall be authorized to seek said penalties as criminal fines in Town Court or as civil penalties in a proceeding in Supreme Court or other court of competent jurisdiction along with other legal remedies, including declaratory and injunctive relief.
- C. Severability. If any section, subsection or paragraph of this article shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

ARTICLE VIII

Administration and Enforcement

§ 180-70. Enforcement.

This chapter shall be enforced by the Code Enforcement Officer, who shall be appointed by the Town Board. In the case of vacancy in the office of the Code Enforcement Officer, the Town Supervisor or his designee, as ratified by the Town Board shall be the acting enforcement officer. No building permit or certificate of occupancy shall be issued by the Code Enforcement Officer except where all the provisions of this chapter have been complied with.

§ 180-71. Permits.

- A. Building permit. No building or dwelling unit shall be constructed, structurally altered, enlarged or moved, with costs more than \$~~1~~2,500, unless a building permit for such action has been issued by the Code Enforcement Officer.

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B. Matter accompanying application for permits.

- (1) Each application to the Code Enforcement Officer for a permit to erect a new building or structure or to enlarge an existing one or to move an existing one shall be accompanied by a site plan showing the measurements of the lot and of all building setbacks and parking spaces, existing and proposed, and the intended use. The documentation shall be the same as required for site plan review. For new construction without public sewers, no building permit shall be issued unless any required approval is received by the New York State Department of Health and, where applicable, the New York State Department of Environmental Conservation.
- (2) Any other application for a building permit and any application for a use permit shall be accompanied by a description of the intended use or uses of the land and buildings and such further details as the Code Enforcement Officer may require for a clear understanding of the case.

§ 180-72. Zoning Board of Appeals.

A. Establishment.

- (1) A Zoning Board of Appeals is hereby established in accordance with Article 16, Section 267 of the Town Law. It shall consist of five members, each to serve for a term of five years. The Town Board may appoint up to three alternate members to the Zoning Board of Appeals pursuant to Town Law. The term of office of the members of the Board of Appeals and the manner of their appointment shall be in accordance with the provisions of Article 16, of the Town Law. Such members shall complete the training requirements provided in Section 267 of the Town Law. A member of the Board of Appeals shall not at the same time be a member of the Town Board.
- (2) Vacancies occurring in said Board shall be filled for such unexpired period only. The Town Board shall designate its chairperson and shall provide for such expenses as may be necessary and proper. In the absence of a chairperson, the Zoning Board of Appeals may designate a member to serve as acting chairperson.
- (3) The Town Board shall have the power to remove any member of the Zoning Board of Appeals for cause and after public hearing.

B. Powers

- (1) The Zoning Board of Appeals shall have the duties, rights, powers and functions conferred upon it by ~~Section 267 of~~ Article 16 of the Town Law and any other provisions of the Town Law and any other provisions of law or ordinance applicable thereto in connection with appeals to review any order, requirement, decision, interpretation, or determination made by the administrative official charged with the enforcement of this Local Law, generally the Code Enforcement Officer. The Board, upon application, may also issue advisory opinions and interpretations of the zoning code or map.
- (2) Hearing appeals. In addition to other powers conferred to it by this Chapter, the jurisdiction of the board of appeals shall be appellate and shall include hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation,

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or determination made by the Enforcement Officer. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the town.

C. Conduct of Business

- (1) The Zoning Board of Appeals may employ such clerical or other staff as may be necessary, provided that it shall not incur expenses beyond the amount of appropriations made available by the Town Board for such purposes.
- (2) Meetings, minutes, records. Meetings of the zoning board of appeals shall be open to the public to the extent provided in article seven of the public officer's law. Such board of appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.
- (3) Filing requirements. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the board of appeals shall be filed in the office of the town clerk within five business days and shall be a public record.
- (4) Assistance to board of appeals. Such board shall have the authority to call upon any department, agency or employee of the town for such assistance as shall be deemed necessary and as shall be authorized by the town board. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance. Further, the Zoning Board of Appeals shall have the authority to call upon any professional to assist in its review of applications. Expense for such professional shall be borne by the applicant.
- (5) The Zoning Board of Appeals shall have the power to promulgate written rules of procedure, by-laws, and forms in order to fulfill its responsibilities under this local law.
- (6) All meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at such other times as the Board may determine. (7) Time of appeal. An appeal shall be taken within sixty days after the filing of any order, requirement, decision, interpretation or determination of the Enforcement Officer, by filing with such officer and with the board of appeals, a notice of appeal, specifying the grounds thereof and the relief sought on forms prescribed by the Zoning Board of Appeals. Such application shall refer to the specific provision of this Local Law involved and shall specify the grounds for the variance requested, the interpretation claimed, or for the reversal of an order, requirement, decision or determination of an administrative official. The Zoning Enforcement Officer shall transmit to the zoning board of appeals all the papers constituting the record upon which the action appealed from was taken.
- (87) If an agricultural data statement has been submitted, the Clerk of the Zoning Board of Appeals shall, upon receipt of the variance application, mail written notice of the application to the owners of land as identified by the appellant in the agricultural data statement. Such notice shall include a description of the proposed variance and its location. The cost of mailing the notice shall be borne by the appellant.
- (98) Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Enforcement Officer certifies to the board of appeals, after the notice of appeal shall have been filed with the administrative official, that by reason of facts stated in the certificate a stay, would, in his or her opinion, cause imminent peril to

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life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.

(~~109~~) Hearing on appeal. The board of appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it after receipt of a complete application. The Zoning Board of Appeals shall give public notice of such hearing by publication in a paper of general circulation in the town at least five days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the board prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney. In addition to the public notice of a hearing, notice shall be given in writing to all property owners of the land included in such proposed change, and the land immediately adjacent extending five hundred (500) feet there from, and the land directly opposite thereto extending five hundred (500) feet from the street or highway frontage of such opposite land, as said property owners and addresses appear on the latest completed assessment roll of the town. Upon the hearing, any party may appear in person or by agent or by attorney. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal is taken.

(~~110~~) Notice to County Planning Board. At least five days before such hearing, the board of appeals shall mail notices thereof to the parties and to the County Planning Board as required by section two hundred thirty-nine-m of the general municipal law. This notice shall be accompanied by a full statement of the proposed action, as defined in subdivision one of section two hundred thirty-nine-m of the general municipal law. No action shall be taken on variances referred to the County Planning Board until its recommendation has been received, or 30 days have elapsed after its receipt of the full statement of the proposed variance, unless the County and Town agree to an extension beyond the 30-day requirements for the County Planning Board's review. A majority-plus-one vote shall be required to approve any variance which receives a recommendation of disapproval from the County Planning Board because of the referral process specified above, along with a resolution setting forth the reasons for such contrary action.

(~~121~~) Time of decision on appeal. The board of appeals shall decide upon the appeal within sixty-two days after the conduct of said hearing. The time within which the board of appeals must render its decision may be extended by mutual consent of the applicant and the board.

(~~1312~~) Voting requirements.

(a) Decision of the board. Every motion or resolution of a board of appeals shall require for its adoption the affirmative vote of a majority of all the members of the board of appeals as fully constituted regardless of vacancies or absences. Where an action is the subject of a referral to the county planning agency the voting provisions of section two hundred thirty-nine-m of the general municipal law shall

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apply.

(b) Default denial of appeal. In exercising its appellate jurisdiction only, if an affirmative vote of a majority of all members of the board is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the Enforcement Officer within the time allowed, the appeal is denied. The board may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process ~~as set forth in Section (c) (11) of this section.~~

(1413) Filing of decision and notice. The decision of the board of appeals on the appeal shall be filed in the office of the town clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.

(1514) Compliance with state environmental quality review act. The board of appeals shall comply with the provisions of the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations as codified in title six, part six hundred seventeen of the New York codes, rules and regulations.

(1615) Rehearing. A motion for the zoning board of appeals to hold a rehearing to review any order, decision or determination of the board not previously reheard may be made by any member of the board. A unanimous vote of all members of the board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

D. Permitted action by board of appeals.

(1) Orders, requirements, decisions, interpretations, determinations. The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such ordinance or local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.

(2) Use variances.

a. The board of appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances, as defined herein.

b. No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is

located:

- [1] the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - [2] that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - [3] that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - [4] that the alleged hardship has not been self-created.
- c. The board of appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- (3) Area variances.
- a. The zoning board of appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein.
 - b. In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:
 - [1] whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - [2] whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - [3] whether the requested area variance is substantial;
 - [4] whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - [5] whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.
 - c. The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- (4) Imposition of conditions. The board of appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the

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property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

E. Court Review of Board Decisions

- (1) Any person or persons jointly or severally aggrieved by any decision of the Zoning Board of Appeals may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules and § 267-c of the Town Law.
- (2) Expiration of appeal decision. Unless otherwise specified by the Zoning Board of Appeals, a decision on any appeal shall expire if the appellant fails to obtain any necessary building permit within 12 months of the date of such decision.
- (3) Grant of Variance. The grant of a variance shall serve as authorization for the Zoning Enforcement Officer to issue a project permit, provided that the project complies with all applicable provisions of this local law and other applicable regulations.

§ 180-73. Planning Board

- A. Pursuant to §271 of the Town Law, the Planning Board shall consist of seven (7) members appointed by the Town Board. The Town Board may also appoint alternate members pursuant to Town Law.
- B. The Town Board shall appoint and designate the Chair. In the absence of a Chair, the Planning Board may designate a member to serve as acting Chair. A member of the Planning Board shall not simultaneously be a member of the Town Board or of the Zoning Board of Appeals. The Town Board shall have the power to remove any member appointed by such board for cause after a public hearing. The Chair may only be removed from office pursuant to this section by action of the Town Board. The Town Board shall provide for reasonable compensation for a clerk, and for such other expenses as may be necessary and proper.

The Office of the Town Clerk may serve as the Office of the Clerk of the Planning Board. Additionally, the Town Clerk may appoint a deputy to serve as the Clerk of the Planning Board.

C. Powers of the Planning Board. The responsibilities of the Planning Board are as follows:

- (1) Reviewing and approving subdivision applications;
- (2) Reviewing and approving site plans;
- (3) Reviewing and approving special use permits;
- (4) Submitting of an advisory opinion to the Town Board for proposed amendments to this law.
- (5) Reviewing proposed PUD applications; and
- (6) Any other matter that the Town Board shall, by amendment to this law, decide to vest as responsibilities of the Planning Board.

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- D. Terms. Terms of office for members of the Planning Board shall be for ~~five (5)~~seven (7) years. If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint the new member for the remainder of the term.
- E. Training and Continuing Education. Every member of the Planning Board shall annually attend four (4) hours at one (1) or more training or continuing education course related to the work of the Planning Board each year as ~~per~~provided pursuant to Town Law ~~Sections 7-712 and 7-718~~Section 271. The Town Board shall pay the reasonable expense of such training or continuing education.
- F. Appointment and Removal of Members. Except as otherwise provided herein, Section 271 of the Town Law shall govern the appointment and removal of Planning Board members.
- G. Conduct of Business
- (1) The Planning Board may employ such clerical or other staff or consulting assistance as may be necessary for the conduct of its business, provided that it shall not incur expenses beyond the amount of appropriations made available for such purposes, or covered by an escrow account. The Planning Board may also engage engineers, planners, architects, and other consulting services at the expense of the applicant for site plan review, subdivision approval, or a Special Use Permit as provided for in Chapter 153 of the Town Code.
 - (2) All meetings of the Planning Board shall be held at the call of the Chair and at such other times as such board may determine. The concurring vote of a majority of all members shall be necessary to take action on any matter before it. Meetings shall be open to the public as provided in Article 7 of the Public Officers Law of the State of New York (Open Meetings Law). The Board shall keep minutes of its proceedings. The minutes shall show the vote of each member upon every question, or if absent or failing to vote, indicating such fact. The Planning Board shall also keep records of its examinations and other official actions, which shall also be filed in the Office of the Town Clerk.
 - (3) The Planning Board may adopt forms and by-laws for the conduct of its meeting so long as such by-laws are consistent with Town Law and this ~~law~~Chapter. Such forms and by-laws shall be filed in the Office of the Town Clerk and made available to the public.
 - (4) Voting Requirements. Every motion or resolution of the Planning Board shall require for its adoption the affirmative vote of a majority of all the members of the Planning Board. Where an action is the subject of a referral to the county planning agency, the voting provisions of sections 239-m and 239-n of the General Municipal Law shall apply.
 - (5) Procedure. All applications to the Planning Board shall be made in writing on forms prescribed by the Planning Board and provided by the Town Clerk. Every final decision of the Planning Board with respect to an application shall be made by resolution, and shall contain a full record of findings in the case. The decision of the Planning Board shall immediately be filed in the Office of the Town Clerk, and copies thereof mailed to the applicant and to the Zoning Officer.

§ 180-74. Penalties for Offenses.

- A. If the alleged violator(s) fail to correct the violation within the reasonable time of the period provided for correction of the violation, the Enforcement Officer shall then commence a proceeding in the local Justice Court as per this ~~chapter~~section. Prior to implementing a criminal or civil

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penalty, the Enforcement Officer shall inform the Town Board to determine which procedure to pursue.

B. Criminal Proceedings. The Enforcement Officer shall commence the proceeding by causing an appearance ticket to be served on the alleged violator(s) in accordance with the requirements of State law for issuance of appearance tickets. An appearance ticket issued under authority of this Chapter shall be served personally. The Enforcement Officer shall also prepare a supporting deposition or affidavit setting forth the details of the violation. The deposition shall:

(1) be in writing;

(2) be dated, signed by the Officer, and notarized;

(3) specify the condition or activity that violates this Zoning Law;

(4) specify the provision or provisions of this Chapter which is/are violated by the specified condition or activity;

C. The Enforcement Office may also, where an appearance ticket fails to secure the court attendance of the alleged violator(s), request that the Justice Court issue a criminal summons for service on the alleged violator(s). The Town Attorney shall represent the Zoning Enforcement Officer in the Justice Court. Notwithstanding the foregoing, the Enforcement Officer may simultaneously or in addition to the remedy provided in this Chapter refer the alleged violation to the Town Board and Town Attorney for an injunction and the collection of civil fines.

D. As per New York State Town Law Section 268, any violation of this Chapter is hereby declared to be an offense punishable as provided in §268 of the Town Law by a fine not exceeding \$350.00 or imprisonment for a period not to exceed six (6) months, or both, for conviction of a first offense; upon conviction of a second offense, both of which were committed within a period of five (5) years, punishable by a fine not less than \$350.00, nor more than \$700.00, or imprisonment for a period not to exceed six (6) months, or both; and upon conviction of a third or subsequent offense, all of which were committed within a period of five (5) years, punishable by a fine not less than \$700.00, nor more than \$1,000.00, or imprisonment for a period not to exceed six (6) months, or both. For the purpose of conferring jurisdiction upon the Courts and judicial officers generally, violations of the Zoning Law shall be deemed misdemeanors and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's week's continued violation shall constitute a separate additional violation. Whenever a violation of this chapter occurs A violator must be served a new deposition and criminal summons for each and every week that a fine is sought.

E. Civil penalties. In addition to those penalties proscribed by State law, any person may file a complaint in regard hereto, who violates any provision of this Zoning Law, or any term or condition of any zoning permit, stop work order, operating permit or other notice or order issued by the Enforcement Officer pursuant to any provision of this Zoning Law, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted by Athens.

F. Injunctive relief. An action or proceeding may be instituted by the Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this Chapter, or any term or condition of any stop work order, operating permit, compliance order, or other notice or order issued by the Enforcement Officer pursuant to any provision of this Chapter. In particular, but not by way of limitation, where the construction or use

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of a building or structure is in violation of any provision of this Chapter, or any Stop Work Order, or Compliance Order, or this Chapter, an action or proceeding may be commenced in the name of the Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this section shall be commenced without the appropriate authorization from the Town Board.

G. Remedies not exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in any other section of this Chapter, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this Section, in any other section of this Chapter, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of Section 381 of the New York State Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of Section 381 of the New York State Executive Law.

§ 180-75. Amendments.

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

- A. Every such proposed amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for.
- B. The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendment and cause notice to be given as follows:
 - (1) By publishing a notice of the time and place of said hearing in a paper of general circulation in the Town at least 10 days prior to said hearing.
 - (2) A written notice of any proposed change or amendment affecting property within the proposed zoned area of a housing project authorized under the Public Housing Law, as such area is shown on an approved Zoning Map filed with the Code Enforcement Officer, shall be given to the housing authority erecting or owning the project and to the government providing financial aid or assistance thereto at least 10 days prior to the date of such hearing.
 - (3) A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any state park or parkway shall be given to the regional State Park Commission having jurisdiction over such state park or parkway at least 10 days prior to the date of such public hearing.
 - (4) A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any city, village, Town or county shall be given to the clerk of such municipality and to the Clerk of the Board of Supervisors at least 10 days prior to

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the date of such hearing.

(5) A written notice of any such proposed change or amendment and public hearing thereof shall be referred to the County Planning Department pursuant to General Municipal Law 239-m.

- C. In case, however, of a protest against such change signed by the owners of 20% or more of the area of land included in such proposed change or of that immediately adjacent extending 100 feet there from or of that directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least four members of the Town Board.

§ 180-76. Interpretation; Conflict With Other Laws.

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

§ 180-77. Short Title.

This chapter shall be known and may be cited as "The Town of Athens, New York, Zoning Ordinance."

§ 180-78. Severability.

If any section or specific part or provision or standard of this local law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this chapter or the application thereof to other persons or circumstances, and the Town Board hereby declares that it would have enacted this chapter or the remainder thereof had the invalidity of such provision or application thereof been apparent. If any zoning district boundary that may exist in the future is found by a court to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

§ 180-79. Effective Date.

This local law shall take effect immediately upon filing in the New York State's Secretary of State's Office in accordance with Section 27 of the Municipal Home Rule Law of the State of New York.

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Table 1: Permitted Uses

P= Permitted with no Planning Board or ZBA Review

SP=Site Plan Approval by Planning Board Required

SUP=Special Use Permit by Planning Board Required

<u>Use</u>	<u>District*</u>								
	<u>Rr</u>	<u>Ru</u>	<u>Ru-1</u>	<u>MUC</u>	<u>LI</u>	<u>Ag</u>	<u>OS</u>	<u>H</u>	<u>Ru-385</u>
<u>Residential Uses</u>	-	-	-	-	-	-	-	-	-
<u>Accessory Apartment not in Principal Building</u>	<u>SUP</u>	<u>SUP</u>	<u>SUP</u>	<u>SP/SUP</u>		<u>SUP</u>	<u>SUP</u>	<u>SUP</u>	<u>SUP</u>
<u>Accessory Apartment in Principal Building</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>SP/SUP</u>	-	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Customary Residential Accessory</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Dwelling, Multi-Family</u>	<u>SP/SUP</u>	-	<u>SP/SUP</u>	-	-	-	-	<u>SP/SUP</u>	-
<u>Dwelling, Single Family</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>SP/SUP</u>	-	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Dwelling, Two-Family</u>	<u>P</u>	<u>P</u>	<u>P</u>	-	-	<u>P</u>	<u>P</u>	<u>P</u>	<u>SP/SUP</u>
<u>Manufactured Home</u>	<u>P</u>	<u>P</u>	<u>P</u>	-	-	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Senior Citizen Housing</u>	<u>SP/SUP</u>	<u>SP/SUP</u>	<u>SP/SUP</u>	-	-	-	-	<u>SP/SUP</u>	<u>SP/SUP</u>
<u>Townhouse</u>	<u>SP/SUP</u>	-	<u>SP/SUP</u>	-	-	-	-	<u>SP/SUP</u>	-

<u>Business Uses</u>	-	-	-	-	-	-	-	-	-
<u>Agriculture, Forestry, or other natural resource use, not including mine or excavation</u>	<u>P</u>	<u>P</u>	-		<u>P</u>	<u>P</u>	<u>P</u>	-	<u>P</u>
<u>Adult</u>	-	-	-	-	<u>SP/SUP</u>	-	-	-	-

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<u>Use</u>	<u>District*</u>								
	<u>Rr</u>	<u>Ru</u>	<u>Ru-1</u>	<u>MUC</u>	<u>LI</u>	<u>Ag</u>	<u>OS</u>	<u>H</u>	<u>Ru-385</u>
<u>Establishment</u>									
<u>Agri-business</u>	<u>P</u>	<u>P</u>	<u>SP/SUP</u>	<u>SUP</u>	<u>SUP</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Auto, Boat, Mobile Home, Trailer or RV Sales/Rental</u>	-	-	-	<u>SP/SUP</u>	<u>SP/SUP</u>	-	-	-	-
<u>Autobody or Major Repair Shop</u>	-	-	-	<u>SP/SUP</u>	<u>SP/SUP</u>	-	-	<u>SP/SUP</u>	-
<u>Bank</u>	-	-	-	<u>SP/SUP</u>	-	-	-	<u>SP/SUP</u>	-
<u>Bed and Breakfast Inn</u>	<u>SP/SUP</u>	<u>SP/SUP</u>	<u>SP</u>	-	-	<u>SP/SUP</u>	<u>SP/SUP</u>	<u>SP/SUP</u>	<u>SP/SUP</u>
<u>Camp/Campground</u>	<u>SP/SUP</u>	<u>SP/SUP</u>	-	-	-	-	<u>SP/SUP</u>	-	-
<u>Car Wash</u>	-	-	-	<u>SP/SUP</u>	<u>SP/SUP</u>	-	-	-	-
<u>Cell Tower</u>	<u>SP/SUP</u>	<u>SP/SUP</u>	-	-	<u>SP/SUP</u>	<u>SP/SUP</u>	<u>SP/SUP</u>	-	<u>SP/SUP</u>
<u>Customary Business Accessory</u>	-	<u>P</u>	<u>SP</u>	<u>P</u>	<u>P</u>	<u>P</u>	-	<u>P</u>	<u>P</u>
<u>Day Care, Home, Family</u>	<u>P</u>	<u>P</u>	<u>P</u>	-	-	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Day Care, Group</u>	<u>SP/SUP</u>	<u>SP/SUP</u>	<u>SP</u>	<u>SP</u>	-	-	-	<u>SP/SUP</u>	<u>SP/SUP</u>
<u>Eating or Drinking Establishment</u>	-	-	-	<u>SP/SUP</u>	-	-	-	<u>SP/SUP</u>	-
<u>Educational Facility</u>	-	<u>SP</u>	<u>SP/SUP</u>	<u>SP/SUP</u>	-	-	-	<u>SP/SUP</u>	-
<u>Equipment or Material Storage</u>	-	-	-	-	<u>SP/SUP</u>	-	-	-	-
<u>Excavation and Mining, See 180-41</u>	-	<u>SP/SUP</u>	-	-	-	<u>SP/SUP</u>	<u>SP/SUP</u>	-	-
<u>Fueling Station</u>	-	-	-	<u>SP/SUP</u>	<u>SP/SUP</u>	-	-	<u>SP/SUP</u>	-
<u>Golf Course</u>	-	<u>SP/SUP</u>	-	-	-	-	-	-	-
<u>Home Occupation, Major</u>	<u>SP/SUP</u>	<u>SP/SUP</u>	<u>SP</u>	<u>SP</u>	<u>SP/SUP</u>	<u>SP/SUP</u>	<u>SP/SUP</u>	<u>SP/SUP</u>	<u>SP/SUP</u>
<u>Home Occupation, Low Impact</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Hotel/Motel</u>	-	-	<u>SP/SUP</u>	<u>SP/SUP</u>	-	-	-	<u>SP/SUP</u>	-
<u>Horse Boarding Operation</u>	-	<u>P</u>	-	-	-	<u>P</u>	<u>P</u>	-	<u>P</u>
<u>Junkyard, See 180-44</u>	-	-	-	-	<u>SP/SUP</u>	-	-	-	-

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<u>Use</u>	<u>District*</u>								
	<u>Rr</u>	<u>Ru</u>	<u>Ru-1</u>	<u>MUC</u>	<u>LI</u>	<u>Ag</u>	<u>OS</u>	<u>H</u>	<u>Ru-385</u>
<u>Kennel</u>	-	-	<u>SP/SUP</u>	<u>SP/SUP</u>	-	<u>SP/SUP</u>	<u>SP/SUP</u>	-	<u>SP/SUP</u>
<u>Laundromat, Dry Cleaning, Laundry Pickup</u>	-	-	-	<u>SP</u>	-	-	-	-	-
<u>Light Industrial</u>	-	-	-	-	<u>SP</u>	-	-	-	-
<u>Medical Clinic or Office</u>	-	-	<u>SP</u>	<u>SP</u>	-	-	-	<u>SP/SUP</u>	-
<u>Motor Vehicle or Scrap Junkyard</u>	-	-	-	-	<u>SP/SUP</u>	-	-	-	-
<u>Nature Interpretive Centers</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Personal Service Establishment</u>	-	-	<u>SP</u>	<u>SP</u>	-	-	-	<u>SP</u>	-
<u>Professional, Government, Business Office</u>	-	-	<u>SP</u>	<u>SP</u>	-	-	-	<u>SP/SUP</u>	-
<u>Recreational Use, Indoor</u>	<u>SP/SUP</u>	<u>SP/SUP</u>	-	<u>SP/SUP</u>	-	-	<u>SP/SUP***</u>	-	-
<u>Recreational Use, Outdoor</u>	<u>SP/SUP</u>	<u>SP/SUP</u>	-	<u>SP/SUP</u>	-	-	<u>SP/SUP***</u>	-	-
<u>Religious Facility</u>	-	-	<u>SP</u>	<u>SP</u>	-	-	-	<u>SP</u>	-
<u>Resort</u>	-	<u>SP/SUP (1)</u>	-	-	-	-	-	-	-
<u>Retail Sales</u>	-	-	<u>SP</u>	<u>SP</u>	<u>SP/SUP</u>	-	-	<u>SP</u>	-
<u>Riding Stable</u>	<u>SUP</u>	<u>P</u>	-	-	-	<u>P</u>	<u>P</u>	-	<u>p</u>
<u>Roadside Stand</u>	<u>P</u>	<u>P</u>	<u>SP</u>	<u>P</u>	-	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Sign</u>	<u>SP</u>	<u>SP</u>	<u>SP</u>	<u>SP</u>	<u>SP</u>	<u>SP</u>	<u>SP</u>	<u>SP</u>	<u>SP</u>
<u>Sit Down Eating or Drinking Establishment</u>	-	-	<u>SP</u>	<u>SP</u>	-	-	-	<u>SP</u>	-
<u>Storage or deposition of soil, waste material, See 180-41</u>	-	-	-	-	<u>SP/SUP</u>	-	-	-	-
<u>Swimming Pool</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Trailer Rental/Sales</u>	-	-	-	<u>SP/SUP</u>	<u>SP/SUP</u>	-	-	-	-
<u>Warehouse</u>	-	-	-	-	<u>SP/SUP</u>	-	-	-	-

Comparison First to Revised Town of Athens Draft Zoning **Update**
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	<u>District*</u>								
<u>Use</u>	<u>Rr</u>	<u>Ru</u>	<u>Ru-1</u>	<u>MUC</u>	<u>LI</u>	<u>Ag</u>	<u>OS</u>	<u>H</u>	<u>Ru-385</u>
<u>Water Recreation</u>	<u>SP/SUP</u>	<u>SP/SUP</u>	-	-	-	<u>SP/SUP</u>	<u>SP/SUP</u>	-	<u>SP/SUP</u>
<u>Water Storage Facility</u>	<u>SP/SUP</u>	<u>SP/SUP</u>	-	<u>SP/SUP</u>	<u>SP/SUP</u>	<u>SP/SUP</u>	<u>SP/SUP</u>	<u>SP/SUP</u>	<u>SP/SUP</u>
<u>Wind Energy Conversion System</u>	<u>SP/SUP</u>	<u>SP/SUP</u>	-	-	<u>SP/SUP</u>	<u>SP/SUP</u>	<u>SP/SUP</u>	-	<u>SP/SUP</u>
<u>Use</u>	<u>Rr</u>	<u>Ru</u>	<u>Ru1</u>	<u>MUC</u>	<u>LI</u>	<u>Ag</u>	<u>OS</u>	<u>H</u>	<u>Ru-385</u>

(1) Resorts in the Ru District allowed only as per 180-59 (Planned Unit Development)

* Allowed Uses for any of the watershed overlay districts shall be the same as the base district, except where noted in 180-30.

*** Recreation use allowed only as defined as Passive Recreation

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Table 2: Density and Dimensions

<u>Use</u>	<u>Utility Class</u>	<u>Residential Density (Number of acres per dwelling required).*</u>	<u>Lot Area Required Per Non-residential Use</u>	<u>Min. Lot Width (Feet)</u>	<u>Min. Front Yard Setback (Feet)</u>	<u>Maximum Front Yard Setback (Feet)</u>	<u>Min. Lot Depth (Feet)</u>	<u>Min. Each Side Yard (Feet)</u>	<u>Min. Rear Yard (Feet)</u>	<u>Max. Building Height (Feet)</u>	<u>Max. Percent Parcel Coverage (All Lots)</u>
Rr	<u>Class 1</u>	<u>15100 square feet</u>	<u>20000square feet</u>	<u>100</u>	<u>25</u>	<u>N/A</u>	<u>100</u>	<u>15</u>	<u>25</u>	<u>35</u>	<u>30</u>
	<u>Class 2</u>	<u>30000 square feet</u>	<u>20000 square feet</u>	<u>125</u>	<u>25</u>	<u>N/A</u>	<u>100</u>	<u>40</u>	<u>25</u>	<u>35</u>	<u>30</u>
	<u>Class3</u>	<u>65000 square feet</u>	<u>1 acre</u>	<u>150</u>	<u>25</u>	<u>N/A</u>	<u>100</u>	<u>40</u>	<u>25</u>	<u>35</u>	<u>30</u>
Ru	<u>Class 1</u>	<u>1 DU per 3 acres</u>	<u>20000 square feet</u>	<u>100</u>	<u>50</u>	<u>N/A</u>	<u>120</u>	<u>30</u>	<u>50</u>	<u>35</u>	<u>30</u>
	<u>Class 2</u>	<u>1 DU per 3 acres</u>	<u>20000 square feet</u>	<u>100</u>	<u>50</u>	<u>N/A</u>	<u>120</u>	<u>30</u>	<u>50</u>	<u>35</u>	<u>30</u>
	<u>Class 3</u>	<u>1 DU per 3 acres</u>	<u>1 acre</u>	<u>100</u>	<u>50</u>	<u>N/A</u>	<u>120</u>	<u>30</u>	<u>50</u>	<u>35</u>	<u>30</u>
Ru1	<u>Any Class</u>	<u>1 DU per 1 acre</u>	<u>1 acre</u>	<u>75</u>	<u>25</u>	<u>N/A</u>	<u>100</u>	<u>30</u>	<u>50</u>	<u>35</u>	<u>30</u>
MUC	<u>Class 3</u>	<u>130,000 square feet**</u>	<u>1 acre</u>	<u>200</u>	<u>40</u>	<u>N/A</u>	<u>150</u>	<u>25</u>	<u>50</u>	<u>35</u>	<u>60</u>
LI	<u>Any Class</u>	<u>No Residential Uses Allowed</u>	<u>2 acres</u>	<u>50</u>	<u>100</u>	<u>N/A</u>	<u>200</u>	<u>50</u>	<u>50</u>	<u>45</u>	<u>50</u>
Ag	<u>Class 3</u>	<u>1 DU per 10 acres</u>	<u>1 acre</u>	<u>200</u>	<u>75</u>	<u>N/A</u>	<u>150</u>	<u>50</u>	<u>50</u>	<u>35</u>	<u>25</u>
OS	<u>Class 3</u>	<u>1 DU per 5 acres</u>	<u>1 acre</u>	<u>250</u>	<u>75</u>	<u>N/A</u>	<u>175</u>	<u>50</u>	<u>50</u>	<u>35</u>	<u>25</u>
H	<u>Class 1</u>	<u>10000 square feet</u>	<u>20000 square feet</u>	<u>80</u>	<u>25</u>	<u>35</u>	<u>80</u>	<u>20</u>	<u>25</u>	<u>25</u>	<u>40</u>
_	<u>Class 2</u>	<u>20000 square</u>	<u>20000 square feet</u>	<u>80</u>	<u>25</u>	<u>35</u>	<u>80</u>	<u>20</u>	<u>25</u>	<u>25</u>	<u>40</u>

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<u>Use</u>	<u>Utility Class</u>	<u>Residential Density (Number of acres per dwelling required).*</u>	<u>Lot Area Required Per Non-residential Use</u>	<u>Min. Lot Width (Feet)</u>	<u>Min. Front Yard Setback (Feet)</u>	<u>Maximum Front Yard Setback (Feet)</u>	<u>Min. Lot Depth (Feet)</u>	<u>Min. Each Side Yard (Feet)</u>	<u>Min. Rear Yard (Feet)</u>	<u>Max. Building Height (Feet)</u>	<u>Max. Percent Parcel Coverage (All Lots)</u>
		<u>feet</u>									
	<u>Class 3</u>	<u>31500 square feet</u>	<u>1 acre</u>	<u>80</u>	<u>25</u>	<u>35</u>	<u>80</u>	<u>20</u>	<u>25</u>	<u>25</u>	<u>40</u>
<u>Ru-385</u>	<u>Class 1</u>	<u>1 DU per 3 acres</u>	<u>20000 square feet</u>	<u>100</u>	<u>75</u>	<u>N/A</u>	<u>100</u>	<u>50</u>	<u>50</u>	<u>35</u>	<u>30</u>
	<u>Class 2</u>	<u>1 DU per 3 acres</u>	<u>20000 square feet</u>	<u>100</u>	<u>75</u>	<u>N/A</u>	<u>100</u>	<u>50</u>	<u>50</u>	<u>35</u>	<u>30</u>
	<u>Class 3</u>	<u>1 DU per 3 acres</u>	<u>1 acre</u>	<u>100</u>	<u>75</u>	<u>N/A</u>	<u>100</u>	<u>50</u>	<u>50</u>	<u>35</u>	<u>30</u>
<u>HLW</u>	<u>Class 3</u>	<u>1 DU per 5 acres</u>	<u>2 acres</u>	<u>200</u>	<u>75</u>	<u>N/A</u>	<u>120</u>	<u>50</u>	<u>50</u>	<u>35</u>	<u>15</u>
<u>GLW</u>	<u>Class 3</u>	<u>1 DU per 5 acres</u>	<u>2 acres</u>	<u>200</u>	<u>75</u>	<u>N/A</u>	<u>120</u>	<u>50</u>	<u>50</u>	<u>35</u>	<u>15</u>
<u>BLW</u>	<u>Class 3</u>	<u>1 DU per 5 acres</u>	<u>2 acres</u>	<u>200</u>	<u>75</u>	<u>N/A</u>	<u>120</u>	<u>50</u>	<u>50</u>	<u>35</u>	<u>15</u>

* Unless the Planning board allows for application of an average lot size as per 180-12 (C), this shall be the minimum lot size.

** Residential uses are allowed as per Table 2, but not encouraged in the Highway Commercial District.

Class 1= Public Utility Provided, Water and Sewer

Class 2= Either Public Water or Sewer

Class 3= On-lot Water and Sewage Disposal

N/A = Not Applicable