Article I. ENACTMENT AND INTENT

Section 1.01 Title

(a) This Local Law shall be known and may be cited as the "Zoning Law of the Town of Byron."

Section 1.02 Purpose

(a) For the purpose of promoting the health, safety and general welfare of the people of the Town of Byron, this Local Law is adopted pursuant to Article 16 of the Town Law of the State of New York. Its purpose is to regulate and restrict: the height, number of stories, and size of buildings and other structures; the percentage of the lot that may be occupied; the size of yards, courts and other open space; the density of population and the location and use of buildings, structures and land for business, industry, agriculture, residence, or other purposes. Such Local Law and Zoning Map, which is a part of said Local Law, are designed to: lessen congestion in the streets; to secure safety from fire and other dangers; to provide adequate light and air; to provide for solar access and the implementation of solar energy systems; to prevent the overcrowding of land and to avoid undue concentration of population; to facilitate the efficient and adequate provision of public facilities and services; and to provide the maximum protection to residential areas from the encroachment of adverse environmental influences. Such Local Law and Zoning Map were made after reasonable consideration, among other things, as to the Comprehensive Plan adopted by the Town. Consideration was also given as to the character of the Town and its peculiar suitability for particular uses and with a view to conserving property values and natural resources and encouraging the most appropriate use of land throughout the town.

Section 1.03 Interpretation

(a) In their interpretation and application, the provisions of this Local Law shall be held to be the minimum standards and requirements for the protection of the public health, safety and general welfare.

Section 1.04 Conflict with Other Local Laws

(a) Whenever the requirements of this Local Law are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances or laws, the most restrictive or those imposing the higher standards shall govern.

Section 1.05 Separability

(a) If any section, subsection, paragraph, sentence, clause, or phrase of this Local Law is declared by any court of competent jurisdiction to be invalid or unconstitutional, it is hereby declared that no other provision of this Local Law shall be affected thereby.

Section 1.06 Amendments

(a) Procedure

(i) The Town Board may, from time to time on its own motion, on petition, or on

recommendation of the Planning Board and in accordance with the laws of the State of New York, amend, supplement or repeal the regulations, provisions or district boundaries of this Local Law.

(b) Filing of Petition

(i) A petition to amend, change or supplement the text of this Local Law or any zoning district as designated on the Zoning Map, established herein, shall be filed with the Town Clerk and shall be transmitted by the Clerk to the Town Board. A petition for a change to the Zoning Map shall contain a map which clearly describes the affected property and its boundaries and shall indicate the existing zoning district and the requested zoning change.

(c) Referral to Planning Board

(i) Each proposed amendment, except those initiated by the Planning Board, may be referred to the Planning Board for an advisory report. In reporting, the Planning Board shall fully state its reasons for recommending or opposing the adoption of such proposed amendment. The Planning Board may condition its approval, as may be appropriate, and shall state whether such amendment is in harmony with the Town's plan for land use. The Planning Board shall state its position relative to proposed zoning amendments in writing within sixty-two (62) days of its referral from the Town Board. Absence of a reply from the Planning Board within the sixty-two (62) day period shall indicate that the Board is in favor of the amendment.

(d) Referral to County Planning Board

(i) Where required by Article 12-B, Section 239 l, m and n of the General Municipal Law, the Town Board shall refer proposed amendments to the County Planning Board for review and recommendation. Pursuant to Section 239 m, the County Planning Board shall have thirty (30) days from the receipt of the referral to provide the Town Board with a recommendation on the proposed amendment.

(e) Public Hearings; Notice; Recording of Actions

(i) Unless otherwise provided, the provisions of the Town Law of the State of New York pertaining to public hearings, official notices and proper recording of zoning actions taken by the Town Board, shall apply to all amendments to this Local Law.

(f) Provisional Amendments

(i) In case of a proposed amendment which involves the reclassification or transfer of any area to a less restrictive district, the Town Board may require the petitioner to submit a site plan (as defined in Section 201 of this Local Law) showing the extent, location and character of proposed structures and uses drawn to scale and specifying the level of detail required by the provisions of Section 304A. The Town Board may require that such plan be modified to meet the objections raised at any public hearing thereon, or subsequent thereto, and may qualify its approval of any such amendment by imposing specific restrictions or conditions to govern such approval. Unless an application for a building permit is made within six (6) months after the Town Board's approval of said amendment and unless development of the area included is commenced within a period of one (1) year after the Town Board's approval, said approval shall be void and the zoning classification shall be as it was when the petition for amendment was filed. All improvements in such district shall be made in accordance with the plan as approved by

the Town Board.

(g) Disposition Final Rehearing on Petition

(i) The disposition of a petition for amendment by the Town Board shall be final and disapproval or denial of the proposed amendment shall void the petition. No new petition for an amendment, which has been previously denied by the Town Board, shall be considered by it, except for a vote to table or to receive and file. No public hearing shall be held on such amendment within a period of one (1) year from the date of such previous denial unless the Planning Board shall submit a recommendation, with reasons stated therefore certifying that there have been substantial changes in the situation which would merit a rehearing by the Town Board. Such rehearing may be granted only upon a favorable vote of a majority plus one (1) of the Town Board.

Section 1.07 Repealer

(a) The text of the Zoning Ordinance and the Zoning Map of the Town of Byron, Genesee County, New York, enacted by the Town Board of the Town of Byron, in April, 1997, and as the same from time to time have been amended, are hereby repealed and amended in their entirety as set forth below, superceding previous enactments and amendments thereto shall be repealed.

Section 1.08 Effective Date

(a) This Local Law shall take effect immediately upon adoption and filing Law with the Secretary of the State pursuant to Section 27 of the Municipal Home Rule Law.

Article II. DEFINITIONS AND WORD USAGE

Section 2.01 Word Usage; Administrative Agencies Defined

(a) For the purpose of this Local Law, certain words and terms used herein shall be defined as follows:

(i) Word Usage

1) All words used in the present tense include the future tense.

2) All words in the plural include the singular and all words in the singular include the plural, except as to the number of permitted structures, unless the natural construction of the wording indicates otherwise.

3) The word "person" includes an association, partnership or corporation, company or any other entity.

4) Unless otherwise specified, all distances shall be measured horizontally.

5) The word "building" includes the word "structure".

6) "Lot" includes the words "plot", "parcel" or "tract".

7) The word "premises" includes a lot and all buildings or structures thereon.

8) To "erect," "to construct" and "to build" a building or structure each have the same meaning and also include "to excavate" for a building and "to relocate" a building by moving it from one location to another.

9) "Used" shall be deemed also to include "designated, intended or arranged to be

used or occupied."

10) "Shall" is mandatory and not discretionary; "may" is permissive.

(ii) Administrative Agencies Defined

1) BOARD OF APPEALS—The Zoning Board of Appeals of the Town of Byron.

2) CODE ENFORCEMENT OFFICER—The public official, agency or organization appointed by the Town Board of the Town of Byron to enforce the New York State Uniform Fire Prevention and Building Code in the Town of Byron (Article 18, Sections 370-383, Executive Law).

3) COUNTY PLANNING BOARD—The Planning Board of the County of Genesee.

4) DEPARTMENT OF HEALTH—The Genesee County Department of Health and any other health board or department established pursuant to the laws of the State of New York and having authority for the regulation of matters pertaining to the public health of the Town.

5) PLANNING BOARD—The Planning Board of the Town of Byron.

6) SOIL AND WATER CONSERVATION DISTRICT—The Genesee County Soil and Water Conservation District

7) TOWN BOARD—The Town Board of the Town of Byron.

8) ZONING ENFORCEMENT OFFICER—The official designated by the Town Board of the Town of Byron to enforce the provisions of this Local Law.

Section 2.02 Definitions

(a) As used in this Law, the following terms shall have the meanings indicated:

ACCESSORY—The term applied to a building or use which:

1) is customarily incidental and subordinate to a principle building or principle use;

2) is subordinate in area, extent or purpose to the principle building or principle use served;

3) is located on the same zoning lot as the principle building or principle use.

4) A zoning permit shall be required for all accessory buildings. A building permit shall be required for all accessory buildings in excess of one-hundred forty-four (144) square feet.

ADULT USE—Any activity or business which provides entertainment or materials to customers with an emphasis on matters depicting or related to sexual activities or specific anatomical areas or which must exclude minors by operation of law.

ADULT CARE—The provision of temporary or long term residential care and services to adults who, though not requiring continual medical or nursing care as provided by facilities licensed or operated pursuant to Article 28 of the Public Health Law or Articles 19, 23, 29, and 31 of the Mental Hygiene Law, are, by reason of physical or mental disabilities or other factors, unable or substantially unable to live independently.

ADULT CARE FACILITY—A facility, other than a Family Type Home, which provides Adult Care. For the purposes of this Local Law, an Adult Care Facility shall include the following: adult home, enriched housing program/assisted living, residence for adults,

shelter for adults, public home, and private proprietary adult-care facility as defined by NYS Department of Social Services Chapter II, Subchapter D, Part 485.

AGRICULTURAL-BASED BUSINESS—A business which primarily serves agricultural uses (i.e. farm operations) including a business which manufactures, distributes, sells services or repairs machinery and equipment used in farm operations or which processes, stores, sells, or distributes herbicides, pesticides, fertilizer, or farm products or commodities.

AGRICULTURAL USE— As defined in Agriculture and Markets Law Section 301(4) – (i.e. Seven (7) acres—$10,000 sales and used in agricultural production.)
AGRICULTURAL ACCESSORY USE—Any activity connected with the raising of crops, livestock or production of livestock products, including but not limited to field crops, fruits, vegetables, horticultural specialties, livestock and livestock products, furs, maple sap, Christmas trees, aquaculture products and woody bio-mass. This shall encompass any activity or use now permitted by law, engaged in by or on behalf of a farmer in connection with farming including, but not limited to; housing for farm workers; stables and other tourist activities; the collection, transportation, distribution and storage of animal and poultry waste, transportation and use of equipment for tillage, planting, harvesting and marketing; transportation, storage and use of fertilizers and lime, and legally permitted insecticides, herbicides and fungicides; construction of farm structures and facilities, including farm wineries and other on-farm food processing; construction and maintenance of fences and other enclosures ;and the use and/or maintenance of related pastures, idle or fallow land, woodland, wetland, farm ponds, farm roads and certain farm buildings and other structures related to the agriculture practices. Agricultural accessory uses shall also include the processing and wholesale and retail marketing, including U-pick sales, of the agricultural output of the farm and related products that contribute to farm income, including the sale at the owner's farm stand of agricultural products so long as a substantial portion of the annual gross sales of the farm stand have been grown on said farm.

AGRICULTURAL WASTE STORAGE FACILITY—Any building, structure, pond, lagoon, or yard for the bulk storage of agricultural waste for eventual removal and /or dispersion.

AIRSTRIP—Any area of land, designed for private non-commercial use of aircraft including hangers, taxi-ways, and landing areas.

ALTERATIONS—The change or rearrangement of the structured members of a building such as bearing walls, columns, beams, or girders or in the exit facilities; an enlargement of a building, whether by extending on a side or by increasing in height; the moving from one location or position to another;(any change whereby a structure is adapted to another or different use).

ANIMAL SHELTER—Building or land used for the temporary harboring of stray or homeless dogs, cats and other similar domestic pets, together with facilities for the adoption of the harbored animals.

ANTENNA—A system of conductors used in transmitting and/or receiving electromagnetic waves including radio, television, cellular, telephone, paging and personal communication services (PCS).

AWNING—An overhead structure attached to a building wall and that consists of fabric or other material covering a frame extending at least 12 inches from the face of a building.

APARTMENT BUILDING—A building arranged, intended or designed to be occupied by three (3) or more families living independently of each other, but having common hallways and entrances.

APARTMENT GROUP—Two (2) or more apartment buildings located on a lot.

ARCHAEOLOGICAL DIG SITE— Land which is or is to be excavated to extract buried historic artifacts and remains of human and animal activity including but not limited to fossilized remains of such humans and animals.

BED AND BREAKFAST—An owner-occupied, one-family dwelling in which a room or rooms are rented on a nightly basis for periods of less than two (2) weeks. Meals may or may not be provided. (See NYS Uniform Code ten (10) lodges—five (5) rooms; basement excluded)

BILLBOARD—Any freestanding sign that advertises business conducted, services provided or products sold on properties other than the property on which the sign is erected. Billboards are prohibited.

BOARDING HOUSE (ROOMING HOUSE)—Owner-occupied dwelling wherein more than two (2) people are sheltered for profit for periods of more than two (2) weeks in any consecutive six (6) month period.

BOARDING STABLES- Any premises where animals are boarded excluding dogs.

BUFFER ZONES—A continuous strip of land area consisting of embankments, berms and/or fences and covered with vegetation which is not less than ten (10) feet in width and not less than six (6) feet in height, densely planted and designed to provide a physical screen preventing visual access from one use to another and to reduce the escape and/or intrusion of litter, fumes, dust, smoke, noise, or other noxious or objectionable elements.

BUILDING—Any structure which has a roof supported by columns or by walls or posts

which is used or designed for use to shelter or enclose people, animals or personal property, and the shelter, housing or enclosure of persons, animals, property or business activity.

BUILDING AREA—The sum of the number of square feet of all enclosed and roofed spaces of all buildings located on the same lot. Such areas shall be computed by using outside building dimensions measured on a horizontal plane at ground level.

BUILDING HEIGHT—The vertical dimension measured from the average elevation of the finished grade level at the front of the building to the highest point of the structure. District building height regulations shall not apply to radio or television antennas and commercial communications towers.

BUILDING/STRUCTURE LINE—A line formed by the intersection of a horizontal plane at average grade level and a vertical plane that coincides with the exterior surface of the building on any side. In case of a cantilevered section of a building or a projected roof or porch, the vertical plane will coincide with the most projected surface, excluding steps and overhanging eaves less than two (2) feet in width. All yard and setback requirements are measured to the building/structure lines.

BUILDING PERMIT—A permit issued by the Code Enforcement Office, stating that plans for the proposed construction of a building is in conformance with the Uniform Fire Prevention and Building Code of New York State (Article 18, Sections 370-383, Executive Law).

CAMPING GROUND—A parcel of land and adjacent waterways, ponds, lakes and streams used or intended to be used, let or rented for transient, vacation and recreational occupancy by travel trailers, campers, tents, recreational vehicles, motor homes, the motor vehicles propelling or carrying the same and which require a Motor Vehicle License when travelling on any highway or road and excluding manufactured homes designed for year-round occupancy.

CERTIFICATE OF COMPLIANCE—A document issued by the Zoning Officer upon completion of the change in use of an existing building or of a parcel of land with no buildings after the Zoning Officer's inspection thereof certifying compliance with all requirements of this Local Law.

CERTIFICATE OF OCCUPANCY—A document issued by the Code Enforcement Officer upon completion of construction or alteration of a building and after his inspection thereof said certifying compliance with all of the requirements of the New York State Uniform Fire Prevention and Building Code.

CHILD DAY CARE—Shall mean care for a child on a regular basis provided away from

the child's residence for less than twenty-four (24) hours per day by someone other than the parent, stepparent, guardian, or relative within the third degree of lineal descent of such child, as defined by NYS Department of Social Services Chapter II, Subchapter C, Part 413.

5) Child day care does not refer to care provided in:

a) A summer day camp, traveling summer day camp or children's overnight camp as defined in the State Sanitary Code;

b) A program for school-age children operated solely for the purpose of religious education, sports, classes, lessons, or recreation;

c) A facility providing day service under an operating certificate issued by the Department of State;

d) A facility providing day treatment under an operating certificate issued by the Office of Mental Health or by the Office of Mental Retardation and Developmental Disabilities; or

e) A kindergarten, pre-kindergarten, or nursery school for children three (3) years of age or older, or a program for school-age children conducted during non-school hours, operated by a public school district or by a private school or academy which is providing elementary or secondary education or both, in accordance with the compulsory education requirements of the Education Law, provided that such kindergarten, pre-kindergarten, nursery school, or program is located on the premises or campus where the elementary or secondary education is provided.

CHILD DAY CARE CENTER—Shall mean a program or facility in which child day care is provided on a regular basis to more than six (6) children for more than three (3) hours per day per child for compensation or otherwise, as defined by NYS Department of Social Services Chapter II, Subchapter C, Part 413, except those programs operating as a group family day care home, a family day care home, or school-age child care program, as defined in this Section.

CLUB—An organization established pursuant to the New York State Not-For- Profit Law for a social, educational or recreational purpose, catering exclusively to members and their guests, whose activities are not conducted primarily for profit and are not conducted in conjunction with a public tavern, café or other place of business.

CLUSTER DEVELOPMENT—A development of residential lots, each containing less area than the minimum lot area required for the zoning district within which such development occurs, while maintaining the density limitation imposed by said minimum lot area through the provision of open space as part of the site development plan.

COMMERCIAL COMMUNICATION TOWER— A structure upon which there is installed or mounted devices for the receiving and/or transmitting of electronic, telephonic, radio, television transmissions or signals

COMMUNITY CENTER—Meeting hall, place of assembly, museum, art gallery, library,

not operated primarily for profit.

COMMUNITY RESIDENCE—A supervised community home operated in compliance with New York State Mental Hygiene Law which houses not more than fourteen (14) individuals and provides client supervision on a twenty-four (24) hour basis. For the purposes of this Local Law, an approved community residence as defined herein, is considered a one-family dwelling.

CONTRACTORS YARD—Any space, whether inside or outside a building, used for the storage or keeping of construction materials, equipment, machinery, vehicles or parts thereof, including office space, which is used by a person or entity engaged in the business of construction contractor.

DAY CARE CENTER (FACILITY)—Shall mean a place, person, association, corporation, institution or agency which provides day care as defined by the NYS Department of Social Services Chapter II, Subchapter C, Part 413 in which parents, guardians or other responsible for care place children, excluding family day care homes and group family day care homes as defined herein. The name, description or form of the entity which operates a day care center shall not affect its status as a day care center.

DAYS—shall mean calendar days unless otherwise specified.

DISTRIBUTION CENTER—An enclosed establishment engaged in the receipt, storage, and distribution of goods, products, cargo, and materials, including transshipment by boat, rail, air or motor vehicle.

DRIVE-IN FACILITY– Building or use where a product is sold to, or a service performed for customers while they are in or near their motor vehicle.

DRIVEWAY—An area on a lot providing a means of access from a street or road to a residence or other building or off-street parking area.

DWELLING—A room or connected rooms designed or used exclusively as living quarters for one or more families; the term shall not be deemed to include an automobile court, recreational vehicle, motel/hotel boarding or rooming house, tourist home, or tent. For the purposes set forth in this Local Law a mobile home shall be considered a dwelling or dwelling unit only if it is located in the town of Byron in those situations permitted under Section 1116 of this Local Law.

DWELLING, ACCESSORY APARTMENT—A dwelling modified to accommodate family members in need of temporary housing.

DWELLING, ONE- FAMILY—A dwelling containing one dwelling unit only.

DWELLING, TWO-FAMIY- A dwelling containing two dwelling units only.

DWELLING, MULTI_FAMILY—A dwelling containing three or more dwelling units.

DWELLING UNIT –A room or connected room designed and maintained as unified living quarters with contiguous facilities for sanitation, living, cooking, sleeping and eating.

DWELLING UNIT, EFFICIENCY—A dwelling unit consisting of not more than one (1) habitable room (as defined in NYS Uniform Code) together with kitchen or kitchenette and sanitary facilities.

EXCAVATION—The process of the removal of sand, gravel, soil (including topsoil), or other natural deposits by stripping, digging or commercial operation to build a building.

EXCAVATION SITE—A parcel of land used for the purpose of extracting stone, sand, gravel, or topsoil for sale as an industrial or a commercial operation. See Section 1102.

FAMILY—One (1) or more persons, who live together in one dwelling unit and maintain a common household, whether or not related by blood, marriage or adoption. May also include domestic servants and gratuitous guests.

FAMILY DAY CARE HOME—As defined by NYS Department of Social Services Chapter II, Subchapter C, Part 413, an owner occupied residence in which child day care is provided on a regular basis for up to six (6) children for compensation or otherwise. For the purpose of this Zoning Law a family day care home shall be considered an accessory use to a single family dwelling unit.

FAMILY-TYPE HOME FOR ADULTS—Adult care established and operated for the purpose of providing long-term residential care, room, board, personal care, and/or supervision to four (4) or fewer adult persons unrelated to the operator. For the purposes of this Zoning Law, a family-type home shall be considered an accessory use to a single family dwelling unit.

FARM—An agricultural business as defined in Agriculture and Market Law 301(4) (i.e.;7 acres + $10,000 annual gross/ yr. sales).

FARM WOODLAND—Land used for the production for sale of woodland products, including but not limited to logs, lumber, posts and firewood. Farm woodland shall not include land used to produce Christmas trees or land for the processing or retail merchandising of woodland products.

FARM WORKER HOUSING—On –farm housing provided by the farm operator (with regards to whether the operator owns or rents the farm for the production of agricultural

products) for seasonal and/or full-time employees and their families. The employee must be engaged in the production functions of the farm operation and is not a partner, stockholder or owner of the farm. The primary residence of the owner or partner of the farm operation shall not be considered farm worker housing.

FENCE—A structure of wood, masonry, wire mesh, or other material which prohibits or inhibits unrestricted travel or view between properties or portions of properties or between the street or public right-of-way and a property.

FINISHED GRADE LEVEL—The point at which the soil meets the foundation wall of the building after the completion of the construction of the building and landscaping of the lot.

FLOODWAY— The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation of the base flood.

FLOOR AREA—The sum of the horizontal areas of the several floors of a building or buildings, and its accessory buildings on the same lot, excluding basement floor areas not devoted to residential use, but including the area of roofed porches and roofed terraces, measured from the inside faces of exterior walls or from the center line of walls separating two uses. For the purpose of applying the requirements for off-street parking and loading in the case of offices, merchandising or service types of uses, floor area shall not include areas used principally for non-public purposes such as storage, restrooms, fitting or alteration rooms or general maintenance, or enclosed pedestrian malls or corridors.

FOREVER GREEN—Land reserved or restricted for use for recreation, resource protection and/or buffer or buffers.

FRONTAGE—The length of a lot adjoining the road or highway boundary.

GARAGE, PRIVATE—An accessory building which is used for the storage of motor vehicles or items of personal property owned by the owner or tenant of the principal building.

GASOLINE STATION—A building or land used for sale of motor fuel, oil and motor vehicle accessories, and which may include facilities for lubrication, washing or servicing vehicles, but not including painting or body repairs.

GASOLINE STATION-MARKET- A gasoline station which provides a second commercial service such as a restaurant, dairy bar, beverage market, or food market or such a commercial use which provides for gasoline sales. For the purposes of this definition, sales from vending machines are not considered commercial service.

GROUP FAMILY DAY CARE— An owner occupied residence in which child day care is provided on a regular basis for more than three hours per day per child for seven(7) to 12 children for compensation or otherwise, as defined by NYS Department of Social Services Chapter II, Subchapter C, Part 413.

HOME OCCUPATION—An occupation or profession which: (A) is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit, and (B) is carried on by a member or members of the immediate family residing in the dwelling unit, and (C) is clearly incidental and secondary to the use of the dwelling unit for residential purposes and (D) which conforms to the following additional conditions:

6) The occupation or profession is carried on wholly within the principle building or within a building or other structure accessory thereto.
7) No more than two (2) persons outside the said immediate family are employed in the home occupation.
8) There is no exterior display, no exterior sign, larger than 2 square feet, no exterior storage of materials and no exterior indication of the home occupation or variations of the residential character of the principle buildings.
9) No offensive noise, vibration, smoke, dust, odors, heat or glare is produced, nor does the home occupation result in:
   a) Dissemination of noise, vibration, odor, dust, smoke, observable gas or fumes, or other atmospheric pollutant beyond the boundaries of the immediate site of the building in which such use is conducted;
   b) Hazard or fire explosion or other physical hazard to any person, building or vegetation;
   c) Radiation or interference with radio or television reception beyond the boundaries of the immediate site of the building in which such use is conducted, or the testing of material or instruments in such manner as to constitute a public nuisance.
10) In particular, a home occupation may include, but is not limited to, the following: art studio, dress making, barber shops and beauty parlors (when limited to two work stations), catering, visiting nurse, draftsman, dress making, electrical/radio/television repair, furniture refinisher, laundering, musician, photographer, professional office of a physician, dentist, lawyer, engineer, architect or accountant within a dwelling occupied by the same, upholsterer, teaching or tutoring, real estate offices, or occupations in which the only contact with customers is via telephone.
11) However, a home occupation shall not be interpreted to include the following: motor vehicle repair shop, machine shop, welding and fabrication shop, commercial stables and kennels or restaurants.
12) No more than twenty five (25) percent of the gross floor area of such residence shall be used for the conduct of a home occupation or profession. No more than forty (40) percent of the floor area of an accessory structure shall be used for a home occupation or profession.

HOSPITAL—A place for the diagnosis and treatment of human ailments, except a

doctor's office.

HOTEL/MOTEL—Building(s) containing rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests and where only a general kitchen and dining room may be provided within the building or in an accessory building.

INDUSTRIAL PARK— A parcel of land or contiguous parcels of land which provides for coordinated industrial development of the property. Industrial parks imply a campus-like setting with open landscaped areas between and around buildings.

INDUSTRIAL WIND TURBINE— A wind energy system that is operated primarily (51%or more) to put energy into the electric grid, and/or has a nameplate capacity of more than fifty (50) kilowatts (kW), and/or a total height of more than one-hundred and fifty (150) feet, and/or a blade of more than thirty (30) feet.

JUNK—Shall mean abandoned, discarded or scrap metal, timber, rope, rags, paper, wood, rubber, trash, debris, waste, scraped, dismantled, wrecked materials, including but not limited to motor vehicles, appliances, furniture and other personal property.

JUNK YARD—Any lot or parcel of land or part thereof upon which is located, stored, deposited, or kept any Junk, and specifically including but not limited to, one(1) or more unregistered motor vehicles or farm equipment which was never or can no longer be used or intended for use in agriculture or which is not in operating condition.

KENNEL—Any lot, where as a business domestic animals, other than farm animals, are kept, housed, bred, trained or offered for sale.

LOADING SPACE, OFF-STREET—Space logically and conveniently located for public pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles. Required off-street loading space is not to be included as off-street parking space in the computation of required off-street parking areas.

LODGING ROOM—A room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom.

LOT— A piece or parcel of land contained within described boundaries or dimensions.

LOT AREA—The square footage or acreage contained within the boundaries of a lot. Any portion of a lot included in a public road, street, or highway right-of-way shall not be included in calculating lot area.

LOT CORNER—A lot of land at the junction of, and fronting on, two or more intersecting streets.

LOT COVERAGE –The percentage of the lot area which is devoted to building area.

LOT FRONTAGE—The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots, all sides of a lot adjacent to streets shall be considered front yards.(See also Frontage)

LOT, LEGAL—A lot having at least the minimum dimensions and area required by this law for a lot in the district in which it is located.

LOT LINES—The property lines bounding the lot:

13) Lot Line, Front: The line separating the lot from a street right-of-way.
14) Lot Line, Rear: The lot line opposite and most distant from the
15) front lot line, except for corner lots wherein it shall be the lot line behind the principle structure.
16) Lot Line, Side: Any lot line other than a front or rear lot line.

LOT WIDTH—The horizontal distance between the side lot lines, measured at right angles to the lot depth.

MANUFACTURED HOUSING—As defined by NYS Uniform Fire Prevention and Building Code, a manufactured dwelling unit built on or after June 15, 1976, and conforming to the requirements of the Department of Housing and Urban development (HUD), Manufactured Home Construction and safety Standards, 24 CFR Part 3208, 4/1/93. Transportable in one or more sections, which in the traveling mode, is eight (8) feet or more in width or forty (40) feet or more in length, or when erected in site, is three-hundred and twenty (320) square feet minimum, constructed on a permanent chassis and designed to be used 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 manufactured home shall also include any structure that meets all the requirements of this definition except size requirements and with respect to which the manufacture voluntarily under the national Manufactured Housing Construction and Safety Act of 1974, as amended. The term manufactured home shall not include any self propelled recreational vehicle.

MANUFACTURED HOME PARK—A parcel of land or contiguous parcels of land under one ownership or management used or designed to be used for the location of more than one manufactured home.

MOBILE HOME—A factory-manufactured dwelling unit built prior to June 15, 1976, with or without a label certifying compliance with the National Fire Protection Association (NFPA), American National Standards Institute (ANSI) or a specific State standard, transportable in one or more sections, which in the traveling mode, is eight (8) feet or more in width or forty (40) feet or more in length, or, when erected on site, is

three- hundred and twenty (320) square feet minimum, constructed on a permanent chassis and designed to be used 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 mobile home shall not include travel trailers or any self-propelled recreational vehicle.

MOTEL/HOTEL—See Hotel/Motel.

MOTOR VEHICLE REPAIR/COLLISION SHOP— A building used for commercial repairing, servicing or painting of motor vehicles or other motorized equipment.

MOTOR VEHICLE SALES FACILITY—A facility or property where motor vehicles are sold, which may or may not include a service station and repair facilities for those vehicles.

MOTOR VEHICLE SERVICE STATION—Any building, structure, or land used to dispense, sell or offer automobile fuels, oils or accessories, including lubrication, washing, polishing, or cleaning and the repair or servicing of motor vehicles.

NON-CONFORMING BUILDING—Any building which, at the time it was constructed, did not violate any law but which because of the enactment of this Law does not meet the requirements or regulations for the District in which it is now located pursuant to this Law.

NON-CONFORMING LOT—A lot existing, of record on the date of the enactment of this Law which does not violate any law but which because of the enactment of this Law does not meet the requirements or regulations for the District in which it is now located pursuant to this Law.

NON-CONFORMING USE—Any use of land, buildings or structures lawfully existing on the date of enactment of this Law which does not conform to the use regulations of the district in which it is now situated.

OUTDOOR WOOD BOILERS—A fuel burning accessory structure that (a) is designed to burn wood or other fuels; (b) is specified by the manufacturer for outdoor installation or installation in structures not normally occupied by humans; and (c) is used to heat building space and/or water via the distribution, typically through pipes, of a gas or liquid (e.g., water or water/antifreeze mixture) heated in the device.

OWNER—Any entity holding legal title to the real or personal property in question including but not limited to trustees, trust beneficiaries, contract vendors, and option holders.

PARCEL—A lot or tract of land.(See Section 200 A)

PARKING SPACE—An off-street space available for the parking of one (1) motor vehicle on a transient basis and having a width of at least ten (10) feet and an area of not less than two-hundred (200) square feet, exclusive of passageways and driveways, and having access to a street. Handicapped parking spaces may be larger and therefore require more space, however, regardless of their size; such space shall constitute a single parking space.

PERSONAL SERVICE ESTABLISHMENT—Businesses primarily engaged in providing services involving the care of a person or his or her personal goods or apparel. Such services include laundry, dry cleaning, beauty shops, barbershops, shoe repair, funeral services, health clubs, masseuse, educational, social and domestic services.

PONDS—A natural or man-made body of water, not including swimming pools.

PRINCIPLE BUILDING—A building in which the main or principle use of the lot is conducted.

PRINCIPLE USE—The main or primary purpose for which a building, structure or lot is to be used.

PROFESSIONAL OFFICE—The office of a member of a recognized profession maintained for the conduct of that profession.

PUBLIC BUILDING—Any building used for municipal, civic, religious, recreational or other purposes which is open to the general public and not used in any commercial enterprise.

RECREATIONAL VEHICLE—A vehicle primarily designed as temporary living quarters for emergency, recreational, camping or travel use, which either has its own motor power or is mounted on or drawn by another vehicle.

RECYCABLES HANDLING AND RECOVERY FACILITY— A lot on which is conducted a solid waste management operation at which materials capable of being recycled are separated from other waste and which is regulated by 6NYCRR Part 360.

RESTAURANT—Any establishment, however designed, at which food is sold for consumption on the premises to patrons seated within an enclosed building and where the taking of food and drink from said building is incidental. However, a snack bar or refreshment stand at a public, semi-public, or community swimming pool, playground, playfield, or park operated by the agency or groups or an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be a restaurant.

RETAIL TRADE/SERVICE STORE— A building in which goods, articles, or services are sold to the ultimate consumer thereof, this term shall not be interpreted to mean drive-up service, gasoline station, motor vehicle repair service, new or used car sales or service, trailer or mobile home sales or service.

RIDING ACADEMIES- A facility used for the business of riding and or training horses or other animals and riders.

ROADSIDE STAND—Structure of a non-permanent nature (movable or temporary) on the owner's property utilized during the harvest season for the sale of agricultural products grown primarily by the owner.

SCHOOL—A place of instruction recognized and governed by the Education Law of the State of New York, including nursery, parochial, private, public, colleges, and universities, but not including beauty, culture, dancing, karate, other self- defense teaching business, and driving. Business and music schools are also excluded unless licensed by the said education Department.

SELF STORAGE AREA- A building or group of buildings divided into small separate units or compartments rented to the general public for the storage or keeping of goods which buildings are accessible by the tenants without supervision. Such a Storage Facility shall not include warehouses operated as a separate business or one operated in conjunction with another commercial or industrial business.

SEQRA- State Environmental Quality Review Act as enacted by Article 8 of the Environmental Conservation Law.

SERVICE/REPAIR BAY- A service or repair bay is defined as space within an enclosed structure designed and equipped for the servicing of repair of a motor vehicle.

SETBACK—The horizontal distance between the public highway right-of-way (ROW), rear or side lines of the lot and the front, rear or side lines of the building/structure. All measurements shall be made at right angles from the lot lines to the building/structure lines.

SHOPPING CENTER— A group of businesses occupying adjoining structures, having adequate space for loading, unloading and adequate off-street parking.

SIGN—Any material, structure or device, or part thereof, composed of lettered or pictorial matter which is located out- of- doors, or on the exterior of any building, or indoors as a window sign, displaying an advertisement, announcement, notice or name and shall include any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interests of any persons or business or cause when such is placed in view of the general public.

A-FRAME—A portable sign with two or more steeply angled sides. Also known as a "sandwich board" sign.

AWNING or CANOPY SIGN—Any visual message incorporated into an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area.

COPY-CHANGE SIGN—A sign on which the visual message may be periodically changed.

DIGITAL MESSAGE—A sign which only displays a message or various messages in a digital format.

DIRECTIONAL SIGN—A sign limited to providing information on the location of an activity, business or event.

FREESTANDING SIGN—Any sign not attached or part of a building, but separate and permanently affixed by any other means, in or upon the ground. Included are pole signs, pylon signs and masonry wall-types signs

ILLUMINATED SIGN—Any sign illuminated by electricity, gas or other artificial light, either from the interior or exterior of the sign, and which includes reflective and phosphorescent light

OFF-PREMISE SIGN—A sign unrelated to a business or a profession conducted, or to a commodity or service sold or offered, upon the premises where such sign is located.

PORTABLE SIGN- A sign, whether on its own trailer, wheels, or otherwise, designed to be movable and not structurally attached to the ground, a building, a structure or other sign.

PROJECTING SIGN—A sign which is attached to the building wall or structure and which extends horizontally more than 15 inches from the plane of such wall or a sign which is perpendicular to the face of such wall or structure.

REPRESENTATIVE SIGN—A three- dimensional sign built so as to physically represent the object advertised.

TEMPORARY SIGN—A sign related to a single activity or event having a limited time frame as specified in Section 302c of this Chapter.

WALL SIGN- A sign which is painted on or attached to the outside of a building with the face of the sign in the plane parallel to such wall and not extending more than fifteen (15) inches from the face of such wall.

WINDOW SIGN—A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material, or located within four feet of the window, but not including graphics in connection with customary window displays of products.

SITE PLAN—A development plan, to scale, showing uses and structures, existing and proposed, for a parcel of land, including lot lines, streets, existing and proposed buildings and structures, topography, buffer zones, right-of-ways, parking areas, open space as set forth by the Local Law, or any other information deemed necessary by the Planning Board.

SOLAR ENERGY SYSTEM—A complete design or assembly consisting of a solar energy collector, an energy storage facility (where used), and components for the distribution of transformed energy. Must meet the requirements of the New York State Building Code.

SOUND AGRICULTURAL PRACTICE—Practices necessary for the on-farm production, preparation and marketing of agricultural commodities. When located within a NYS Certified Agricultural District shall include, but are not limited to, operation of farm equipment; farm worker housing; proper use of agricultural chemicals and other crop protection methods; direct sale to consumers of agricultural commodities or foods containing agricultural commodities produced on-farm; agricultural tourism; production, management and harvesting of farm woodland, as defined in this section and construction and use of farm structures. In order for a practice to be considered sound it must be legal, not harmful, necessary, and supported by expert guidance or opinion.

SPECIAL USE —An activity on a lot in one or more Districts which is permitted only if and when the Planning Board grants a permit pursuant to the provisions of Article XI and Section 302 (E).

STABLE—A building or structure or other defined area for the purpose of housing and or feeding animals, whether commercial or private located other than on a farm.

STREET/ROAD RIGHT-OF-WAY LINE (ROW)—The boundary of the area of a street or road established by dedication or usage and which is maintained by the Town, County or State.

STREET/ROAD GRADE—The officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street shall be taken as the "street grade".

SWIMMING POOL—Any body of water or receptacle for water which has a capability of a depth of more than two (2) feet at any point. This includes in-ground, above-ground and on-ground pools; hot tubs; spas and fixed-in-place wading pools.

TEMPORARY USES—An activity conducted for a specific limited period of time which may not otherwise be permitted by the provisions of this Local Law. Examples of such uses are structures incidental to new construction which shall be removed after the completion of the construction work.

TRANSFER STATION—A waste management facility where solid or liquid waste is received for the purposes of storing, processing, sorting, separating, or treating for subsequent disposal or transfer to another facility. This term shall not apply to manure or other putrescible waste material generated as a result of normal farming practices. A transfer station is considered, but not limited to, any of the following:

17) A recycling center.
18) Recyclables handling and recovery facility.
19) Used oil processing and/or storage facility.
20) Construction demolition and debris processing facility.

UNIFORM CODE—New York State Uniform Fire Prevention and Building Code.

VARIANCE, AREA—The authorization by the Zoning Board of Appeals for the use of a lot in a manner not permitted by the dimensional or physical requirements of this Law. The Board of Appeal's authorization is subject to Section 401 (B)(2) and 402 of this Law and Section 267-b(2) of the Town Law.

VARIANCE, USE—The authorization by the Zoning Board of Appeals to conduct an activity on a lot which is otherwise not allowed or prohibited by this Law. The Board of Appeal's authorization is subject to Sections 401(B)(1) and 402 of this Law and Section 267-(b)(3) of the Town Law.

WASTE MANAGEMENT PLAN—An agricultural waste management system plan in accordance with the guidelines and recommendations of the Genesee County Soil and Water Conservation District. A letter of approval from the Genesee County Soil and Water Conservation District must be submitted with the site plan.

WIND ENERGY CONVERSION SYSTEM—An wind energy system that is operated primarily (51% or more) for on-site (may be more than one parcel) consumption, and has a nameplate capacity of fifty (50) kilowatts (kW) or less, and a total height of one-hundred and fifty(150) kilowatts (kW) or less, and a total height of one –hundred and fifty(150) feet or less, and a blade length of thirty (30) feet or less. For the purpose of this section, a "Wind Energy Conversion System" is deemed to be an accessory use.

YARD—A required open space unoccupied and unobstructed by any structure or portion of a structure, except as may be provided by this Local Law and situated between the principle building or group of buildings and the nearest lot line.

YARD, FRONT—A yard extending between the side lot lines across the front of a lot adjoining a street; situated between the street line and the front building line.

YARD, REAR—A yard extending between the side lot lines situated between the rear line of the building and the rear lot line.

YARD, SIDE—A yard extending between the side building line and the nearest side lot line; situated between the front and rear yards.

ZONING PERMIT—A permit issued by the Zoning Officer, stating that the purpose for which a building or land area is to be used is in conformance with the uses permitted and all other requirements of this Local Law.

Article III. ADMINISTRATION AND ENFORCEMENT

Section 3.01 Zoning Enforcement Officer ("Officer")

(a) An Officer of the Town of Byron appointed by the Town Board who shall have all the powers, duties and responsibilities conferred upon and required by this Local Law and any other State or Federal law.

(b) The compensation of such Officer shall be set by the Town Board by resolution and the Officer shall receive such instruction and training as is deemed necessary by said Board. The Officer shall be reimbursed for any travel or other expense in connection with such training or which are incurred in the performance of the Officer's duties.

Section 3.02 Duties of the Zoning Enforcement Officer

(a) It shall be the duty of the Officer or his or her duly authorized and appointed deputies or assistants to cause any plans, buildings, lots or premises to be inspected, examined or reviewed to determine whether or not they are in conformity with the provisions of this Local Law. The Officer or said deputies is and are hereby authorized to enter upon any premises or in any building, subject to the applicable state law, to conduct such inspections or examinations.

(b) In the event that following said inspections or examinations or review, the Officer shall determine that the plans, buildings, lots or premises do not comply with the provision of this Law, the Officer shall so inform the owner.

(i) In the event that the non-compliance relates to plans submitted, the Officer shall inform the Owner of the specific provision of this Law which the plans violate and the Officer's decision not to approve the plans. The Owner shall have the right to appeal any such disapproval to the Zoning Board of Appeals pursuant to Section 402(B) of this Law.

(ii) In the event that a building is being constructed or a lot is being used in a manner which the Officer determines is not in conformity with this Law, the Officer shall issue a STOP WORK order to the Owner and the building permit pursuant to which

construction was being conducted shall thereupon be suspended until the nonconformity is corrected.

(iii) In the event that the Officer, after an inspection or examination, determines that a building or lot has been constructed or is being used in violation of this Law, the Officer shall issue an appearance ticket to the Owner requiring an appearance before a court of competent jurisdiction.

(iv) The Officer shall without prior approval consult with the Town Attorney regarding the proper interpretation of this Law and for any other advice the Officer deems necessary.

(c) The Officer shall issue such permits as are directed to be issued by the Zoning Board of Appeals or the Planning Board.

(d) The Officer shall issue Zoning Permits and/or Building Permits to all applicants whose plan for construction, alteration, or demolition of any building or change if use of any lot conforms to the provisions of this law.

(e) Any person who is or entities which are denied a Zoning or Building Permit or issued a STOP WORK order shall have the right to appeal such denial to the Zoning Board of Appeals pursuant to said Section 403(B) of this Law. The Zoning Enforcement Officer shall have the duty to inform the person or entity and to provide the person or entity with the proper form by which to file an appeal.

(f) Whenever the Zoning Enforcement Officer denies a permit or certificate the Officer shall, in writing, inform the applicant of the specific reasons for denial and instruct the applicant on the proper methods to apply for relief.

(g) The Zoning Enforcement Officer shall maintain a current list showing the Variances and Special Use Permits issued by the Board of Appeals and Planning Board, respectively, so they may determine compliance with any imposed terms and conditions.

(h) Upon approval from the Planning Board and/or the Zoning Board of Appeals, the Zoning Enforcement Officer shall be empowered to issue the necessary permits with the specific conditions to be imposed.

(i) The Zoning Enforcement Officer shall be authorized and empowered to issue appearance tickets pursuant to Section 150.20 of the New York State Criminal Procedure Law.

Section 3.03 Issuance of Permits and Certificates

(a) General Provisions.

(i) No Building Permit application shall be processed unless and until any and all Zoning and/or Special Use Permits have been duly authorized and issued.

(ii) All Building Permits shall expire twelve (12) months from the date of issue except permits for swimming pools which shall expire ninety (90) days from the date of issue.

(iii) The Zoning Enforcement Officer may grant two (2) extensions of six (6) months each, upon a showing of the exercise of due diligence in completing the project by the applicant.

(iv) Upon the expiration of the original permit or any extension thereof, all work on the project must stop unless and until a new permit is issued.

(b) Zoning and Building Permits

(i) No building, structure or sign shall be erected, moved, expanded, structurally altered nor shall the use of any such building or structure be changed without a Zoning and/or Building Permit. Such Officers shall only issue such permits when the project conforms in all respects to this Law or when authorized to do so by a written order or directive from the Planning Board or Zoning Board of Appeals.

(ii) Site Plans

1) All applications for Zoning and/or Building Permits shall be accompanied by a Site Plan.

2) Such Plan shall consist of a sketch drawn to a scale of not less than .5 inch=1 foot, unless the Zoning Enforcement Officer grants permission to use a smaller scale.

3) The Plan shall accurately depict the dimensions of the lot, all existing buildings and any topographical features which would impact the location of future building's storm water runoff or any other result of the proposed project.

4) The Plan shall also state the proposed use and any changes to the existing buildings, any proposed construction and any changes to the topography and any other information required by the Zoning Enforcement Officer in order to determine compliance with this Law.

(iii) No permit shall be issued unless and until the site plan has been approved by the Planning Board, unless the project does not require a site plan.

(iv) The Zoning Enforcement Officer shall be notified that the site is prepared for installation of the foundation of a structure, and shall inspect the site to check the location of the structure.

(v) The zoning and/or building permit shall be located in a place readily visible to the public.

(c) Temporary Use Permit

(i) The Planning Board subject to compliance with the procedural requirement for A Special Use Permit set forth in Section 303F of this Law, may issue a Temporary Use Permit for such period of time as it may determine.

1) Temporary uses incidental to a construction project such as construction trailers, while active construction is underway.

2) Temporary real estate sales office incidental to a subdivision.

3) Temporary roadside stand for sale of agricultural products raised on the property.

4) Other similar temporary incidental uses which:

a) In no way exert a detrimental effect upon the lawful use of land and activities normally permitted in the zoning district in question.

b) Contribute materially to the welfare of the town.

(ii) Permits shall be conditioned upon an agreement by the applicant to remove the use upon expiration of the permit. Permits may be reissued a maximum of one (1) time for an additional period of six (6) months.

(d) Emergency Residence Permits

(i) Recreational vehicles may be permitted as a Temporary Residence in any district upon a determination by the Zoning Enforcement Officer that such housing is necessary because of an event which rendered the permanent residence on the premises damaged to the point that it became uninhabitable.

(ii) The Emergency Residence Permit shall expire one hundred twenty (120) days from the date of issue and may be renewed by the Zoning Enforcement Officer no more than two (2) times for periods not to exceed four (4) months each, or for a total of twelve (12) months.

(iii) The Recreational Vehicle must be removed from the lot on which it was permitted upon the expiration of the permit.

(e) Certificates of Compliance

(i) No land shall be used or occupied and no building hereafter erected, altered, or extended shall be used or changed in use until a Certificate of Compliance has been issued by the Zoning Enforcement Officer in accordance with the provision of this Local Law.

(ii) Failure to obtain a Certificate of Compliance shall be a violation of this Law and punishable as provided by Article XII, Violations, Penalties and Complaints.

(f) Special Use Permit

(i) A Special Use Permit may be issued for a use permitted in a district subject to more restrictive regulation than other permitted uses and only when authorized by the Planning Board after it has determined that the use will confirm to the following criteria:

1) Such use is consistent with the public welfare and convenience.

2) Such use shall be subject to conditions imposed by the Planning Board which will protect the neighborhood from any adverse effects of the use.

3) Such use does not affect a substantial change in the characteristics of the neighborhood.

4) Such use may be subject to an inspection by the Zoning Enforcement Officer to determine its compliance with the conditions of the permit.

5) In the event the Zoning Enforcement Officer determines that there has been a violation of the said conditions, he shall report that violation to the Planning Board.

6) Upon receipt of such report from the Zoning Enforcement Officer, the Planning Board shall hold hearing on not less than twenty (20) days notice to the person or entity to which the permit was issued.

7) If following said hearing, the Planning Board shall determine that the permit has been violated; it shall revoke the permit and shall order the removal of any structure or material used in the conduction of the special use within a specified period of time.

8) Failure of the holder of a revoked permit to obey the order of the Planning Board shall constitute a violation of this Law and each week of such failure shall constitute a separate violation.

(ii) Procedure for issuance of Special Use Permit

1) Application for Special Use Permits shall be made in writing on forms approved by the Planning Board and available at the office of the Town Clerk. Four (4) copies of the completed form shall be filed with the Zoning Enforcement Officer together with a site plan. The Zoning Enforcement Officer shall review the form for completeness and if complete retain one copy, file one copy with the Town Clerk and deliver two (2) copies to the Planning Board.

2) The Planning Board shall when required by section 239 of the General Municipal

Law file a copy of the application with the County Planning Board for its review and determination.

3) The Planning Board shall hold a public hearing upon the application not less than ten (10) days after it has published a notice of such hearing in the official Town newspaper and sent by first class mail such notices to all property owners within five hundred (500) feet of the boundaries of the property for which the Special Use Permit is sought and list generated letter sent by Planning Board Secretary.

4) No decisions shall be made until after public hearing and, where necessary, the determination of the County Planning Board.

5) All decisions by the Planning Board shall be made by formal resolution, which shall contain a full statement of the findings of fact which support the issuance of the permit or support its denial and which shall be fully set forth in the minutes of the board.

6) Such decisions shall be made no later than sixty two (62) days following the close of the public hearing and a copy of the resolution shall be sent to the applicant, the Zoning Enforcement Officer and the Town Clerk.

7) In the event that the Planning Board determines to grant the application, by resolution it shall direct the Zoning Enforcement Officer to issue a Special Use Permit, subject to such conditions as the Planning Board shall have imposed.

8) The Planning Board may issue a Special Use Permit ONLY after it has found that ALL the following standards and conditions have been met:

a) The locations and size of each use, the nature and intensity of the operations involved or conducted in connection therewith, the site layout and its relation to adjoining streets shall be in harmony with the orderly development of the district and shall not pose a hazard to adjoining properties, pedestrianism or vehicular traffic on said adjoining streets.

b) The location, design and height of building, walls, and fences will not discourage the orderly development of the district or impair the development or value of adjacent property.

c) The operations of the special use will not be more objectionable to the neighborhood than uses permitted in the district without a permit.

d) The use will not cause noise, vibration, dust, smoke, odor, glare or unsightly mess which would be detrimental to the neighborhood.

e) The applicant has planned for adequate and appropriate screening of the use from the view of the public and neighboring properties.

f) The use will not cause electric or magnetic disturbances to radio, television, computer or other electronic uses on neighboring properties.

g) The applicant has provided for adequate off street parking and loading facilities which will not interfere with neighboring properties.

h) The use will not cause surface water run-off in excess of the natural lot drainage or provision shall be made to contain or retain such run-off to the effect that adjoining properties will not be adversely affected.

i) Any landscaping will not adversely affect adjoining properties.

9) No Special Use Permit may be issued for any lot in which there is an existing

violation of this Law.

10) Each Special Use Permit shall contain a condition that the Zoning Enforcement Officer is authorized to enter the property and any building thereon upon reasonable notice and without a warrant to other authority to determine compliance with the conditions of the special use permit. Failure to grant the Zoning Enforcement Officer entry shall be a violation of the special permit.

11) The Planning Board may impose a time limitation in any Special Use Permit.

12) In addition to the above specified general standards, the Planning Board may as a condition to approval of any such use establish any other standards, conditions, requirements and limitations it determines to be necessary or appropriate to protect the neighborhood, the public health, and the value of other properties, and promote public safety and welfare.

(iii) A Special Use Permit shall be deemed to authorize only the specific use and in the specific location set forth in the application and permit. All information supplied in the application shall be deemed part of the permit whether or not it is repeated in the resolution of the Planning Board or the actual permit.

(iv) A Special Use Permit shall expire in the event the permitted use discontinues for more than six (6) months or if all the required improvements are not made within one (1) year of the date the permit is issued. The Zoning Enforcement Officer shall issue a Notice of Abandonment in form of a letter to the owner of record by registered mail. If after sixty (60) days the owner has not provided satisfactory proof that the special use did not cease, the Planning Board shall revoke the Special Use Permit.

(v) Under no circumstances shall any applicant or any one on behalf of any applicant make any changes to the property subject to the application prior to the receipt by the applicant of the Special Use Permit issued by the Zoning Enforcement Officer. Any such changes shall be a violation of this Law and constitute grounds for denial of the application pursuant to Section 3(b) above.

(vi) The Planning Board may refer any application for a Special Use Permit to the Zoning Board of Appeals for an interpretation of this Law.

(vii) Upon completion of the improvements or changes authorized by the Special Use Permit, the applicant shall notify the Zoning Enforcement Officer and he shall inspect the property for compliance with the Special Use Permit. If he determines that the property conforms to the permit he shall issue a Certificate of Occupancy.

(viii) The applicant may not engage in the activity which is permitted by the Special Use Permit unless and until the Certificate of Occupancy has been issued.

Section 3.04 Application for Zoning Permits

(a) Zoning Permits

(i) No building or structure shall begin, nor shall any building or structure be extended or structurally altered, nor shall any use of building or land be changed, except pursuant to a Zoning Permit issued by the Zoning Enforcement Officer. The Zoning Enforcement Officer shall be authorized to issue a Zoning Permit only when he has determined that there is no violation of this Local Law or when directed to do so by the

Zoning Board of Appeals or a court of competent jurisdiction.

(ii) All applications for Zoning Permits shall be made in quadruplicate to the Zoning Enforcement Officer on forms supplied by the Zoning Enforcement Officer together with a Site Plan which conforms to the requirements of Section 304 of this Law

(iii) One copy of the application shall be returned to the applicant by the Zoning Enforcement Officer, after the Zoning Enforcement Officer shall have marked such copy either as approved or disapproved and signed it. The original and all remaining copies of the application, similarly marked, shall be retained by the Zoning Enforcement Officer.

(iv) Where the proposed use is farm-related, single-family, or two-family residence in any residential district, or an accessory to a single-family or two-family residence in any district, or a building used for agricultural or agricultural accessory uses in an A-R District, the Zoning Enforcement Officer shall review the application for compliance with this Local Law. The Zoning Enforcement Officer may then either issue or deny the permit applied for.

(v) The Zoning Enforcement Officer shall refer all other applications for zoning permits to the Planning Board for site plan review, and he may also refer applications listed in subdivision 3 above when and if he determines that site plan review by the Planning Board would be beneficial.

(vi) All Zoning Permit applications referred to the Planning Board shall be reviewed to determine: that the proposed site plan conforms to the requirements of this Law; that adjacent properties are protected from potential negative impacts; and that potential adverse environmental impacts are mitigated.

(b) Certificate of Compliance/Occupancy

(i) After the completion of the project permitted by the zoning permit, the applicant shall so notify the Zoning Enforcement Officer, who shall then make an inspection of the property to determine whether or not the property meets the terms and conditions of the permit.

(ii) If the Zoning Enforcement Officer determines that the property meets all the terms and conditions of the permit, he shall issue the appropriate Certificate.

(iii) If the Zoning Enforcement Officer determines that the property does not meet all the terms and conditions of the permit, he shall so notify the applicant and specify in writing each item which does not comply, and shall not issue any certificate until the terms and conditions are met.

Section 3.05 Site Plan Review and Approval

(a) The Planning Board, at a regular public meeting, shall review and approve, or approve with modifications, or disapprove, all uses requiring site plan approval, before a zoning permit is issued.

(b) Submission of Site Plan and Supporting Data

(i) The applicant shall submit nine (9) copies of a site plan and supporting data in form satisfactory to the Planning Board, and should include, but not be limited to, the following information presented in graphic form and accompanied by a written text. The

Planning Board may require additional information which the owner shall submit. The site plan must comply with applicable regulations listed in Article X, Supplementary Regulations, Sections10.01-10.06

1) Survey of property showing existing features, including contours, utility easements, large trees, buildings, uses, structures, streets, right-of-way, zoning and ownership of surrounding property.
2) Layout sketch showing proposed lots, blocks, building locations and land use areas.
3) Traffic circulation, parking and loading spaces, and pedestrian walks.
4) Landscaping plans including site grading, landscaping design, open areas and buffer zone.
5) Preliminary architectural drawings for buildings to be constructed; floor plans, exterior elevations and sections.
6) Preliminary engineering plans; street improvements, storm drainage, water supply and sanitary sewer facilities.
7) Engineering feasibility study of any anticipated problem which might arise due to proposed development, as required by Planning Board.
8) Construction sequence and time schedule for completion of each phase for buildings, parking and landscaped areas.
9) Description of proposed uses; hours of operation, and expected number of employees, volume of business and volume of traffic generated.

(c) Site Plan Review

(i) The Planning Board shall, at a regular or special public meeting, examine the Site Plan and supporting data and determine whether or not it meets at least the following requirements:

1) The Plan must meet all requirements of this Law.
2) The Plan must provide for emergency vehicle access to the site and safe circulation of vehicular and pedestrian traffic within the site and from the site to the street.
3) Proper loading and unloading facilities and parking for employees and customers.
4) Adequate landscaping and setbacks to promote compatibility with, and protection of, any adjacent residential uses.
5) Sufficient design of surface discharge and waste water systems to protect any private wells and adjoining property from damage from release of pollutants or discharge of excessive volume of surface water. The Planning Board shall require sufficient topographical data to determine the proper storm water control facilities.
6) The existence ,location and sufficiency of all municipal facilities including but not limited to water, fire protection, waste water treatment, storm water control and roads.
7) The Planning Board may require such additional information as it deems necessary to determine that the proposed use will be compatible with the requirements of this Law.
8) The Board shall refer all such Site Plans to the Genesee County Planning Board when and if it determines that such referral is required by Section 239 of the General Municipal Law or if it determines that the advice of the County Planning Board would

be helpful in making a determination of compliance.

9) The Planning Board shall retain, hire and employ such experts as it deems necessary to assist it in evaluating any Site Plan and any and all costs associated with the employment of such experts shall be paid by the applicant.

10) Whenever the Planning Board deems it necessary or appropriate it shall require that the Site Plan be subjected to the requirements of SEQRA and notify the DEC of such requirement.

11) The Planning Board may require any changes in any part of the Site Plan it deems necessary to bring the Plan into compliance with this section or any other provision of this Law.

12) In the event that an applicant after having received Site Plan approval changes or modifies the Plan or deviates from the approved Plan, the applicant shall be required to revise the Plan and resubmit it to the Planning Board for approval.

13) The applicant shall be responsible to construct and use facility subject to the Site Plan in all respects in full compliance with all Federal, State, County and Local Laws, Ordinances, Rules, Regulations, Codes, Orders and Directives regardless whether or not specific reference to them was made during Site Plan Review.

(ii) The Board may require changes or additions in relation to yards, driveways, landscaping buffer zones, etc. to insure safety, to minimize traffic difficulties and to safeguard adjacent properties. Should changes or additional facilities be required by the Board, final approval of site plan shall be conditional upon satisfactory compliance by owner to the changes or additions.

(iii) Any owner wishing to make changes in an approved site plan shall submit a revised site plan to the Planning Board for review and approval.

(iv) The Planning Board may, in its sole discretion require that the applicant post a Performance Bond payable to the Town of Byron to insure compliance by the applicant with the Terms and Conditions imposed by the Planning Board.

(d) Environmental Standards

(i) The Planning Board may but shall not be required to review the proposed use for compliance with environmental laws, rules and regulations and shall have the authority to disapprove any proposed use which it finds would violate such laws, rules or regulations.

Section 3.06 Fees

(a) All applications for any permit provided for by this Law shall be accompanied by the payment of the fee established from time to time by resolutions of the Town Board.

(b) In addition to any fee payable pursuant to subdivision (a) above, the applicant shall reimburse the Town of Byron for any and all fees, costs or other expenditures for any legal, engineering, professional, or expert services incurred by the Town to evaluate or analyze any application.

Article IV. BOARD OF APPEALS

Section 4.01 Organization

(a) Appointment Pursuant to Section 267(2) of the Town Law the Town Board shall appoint five (5) persons to constitute the Members of the Zoning Board of Appeals and one (1) of such persons as the Chairperson of the Board of Appeals. Such appointment shall be for terms of five (5) years and shall be staggered as required by Section 267(4).

(b) Removal In the event any member of the Zoning Board of Appeals shall not attend three (3) duly called meetings in any twelve (12) month period he or she may be removed pursuant to Section 267(9).

(c) Alternate Members Pursuant to Local Law No. 1-2004 of the Town of Byron the Town Board has established the terms and conditions for the appointment of and the procedure for the Chairperson to designate alternate members to be seated as a member of the Board of Appeals in conformity with Section 267(11).

(d) Review of Decisions Following the conduct of a hearing on any application the Zoning Board of Appeals shall not allow any other application for the same or similar use unless it shall unanimously determine that there was evidence which was not available to the applicant at the time of the original hearing or that circumstances have substantially changed since that original hearing.

Section 4.02 Powers and Duties of the Zoning Board of Appeals

(a) The Board of Appeals shall have all the powers and duties prescribed by Section 267, of the Town Law of the State of New York and by this Law which are more particularly specified as follows:

(i) Powers and Duties

1) The Board of Appeals shall hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer or body in the enforcement of this Local Law.

2) The Board of Appeals shall render decisions interpreting this Law when so requested by the ZEO, the Planning Board, the Town Board, or by a person directly affected by any such interpretation.

3) The Board of Appeals shall also determine the exact district boundaries upon application from any land owners affected by such determination or the Zoning Enforcement Officer.

(ii) Variances

1) Use Variances- The Zoning Board of Appeals, on appeal from the decision or determination of the Zoning Enforcement Officer, shall have the power to grant use variances, authorizing a use of land which otherwise would not be allowed or would be prohibited by this Zoning Law. No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that:

a) Under applicable zoning regulations, the applicant cannot realize a reasonable return from the property in question provided that lack of return is substantial as established by competent financial evidence;

b) That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

c) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and

d) That the alleged hardship has not been self created.

e) The Zoning 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.

2) Area Variances- The Zoning Board of Appeals shall have the power, upon appeal from a decision or determination of the Zoning Enforcement Officer, to grant area variances from the area or dimensional requirements of the Zoning Law. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted ,as weighted against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:

a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

c) Whether the requested area variance is substantial;

d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

e) Whether the alleged difficulty was self created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

3) Imposition of Conditions- The Zoning Board of Appeals shall, in the granting of either use variance or area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this Zoning Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

Section 4.03 Variance and Appeals Procedure

(a) Variance Procedure

(i) Board of Appeals Procedure. The Board of Appeals shall be governed by Town Law Section 267 in all its proceedings.

(ii) All applications for Variances shall be made on appropriate forms as determined by the Zoning Board of Appeals, provided by the Zoning Enforcement Officer, and shall be accompanied by site plans which adequately describes the proposed project or use.

(iii) Any and all applications for Use Variances shall be accompanied by an Agricultural Data Statement when the proposed use is in or within 500 feet of the boundary of a certified Agricultural District.

(iv) The Zoning Enforcement Officer, after determining that an application is in proper form, shall transmit copies of the application and all supporting documents to the secretary of the Board for distribution to the Board of Appeals for action thereon at least 5 days prior to any public hearing on such variance.

(v) All Variance applications shall be referred to the Town Planning Board at least 10 days prior to its meeting for their recommendations prior to being submitted to the Zoning Board of Appeals.

(vi) A copy of the complete Variance Application and supporting documents shall also be transmitted by the Secretary of the Planning Board to the County Planning Board for review when required under Section 239-m of the General Municipal Law.

(vii) The Board shall fix a reasonable time for the hearing of appeals and shall give due notice of the time set for the hearing to the applicant. Public notice shall be by the publication of a notice in the Official Newspaper of the Town and shall briefly describe the nature of the appeal and the time and place of the hearing. The Board shall, at least five (5) days and no more than ten (10) days prior to the date of the hearing, give notice in writing by first class mail to all property owners within five hundred (500) feet of the property.

(viii) In its review, the Board of Appeals may consult with any other Town, County, and State Officials or Boards or such experts or advisors as it deems necessary and any expenses incurred shall be paid by the applicant. The Board may require such payment or payments to be made in advance or may condition the effective date of any approval upon the payment of such expense.

(ix) The Board shall approve, with or without conditions, or disapprove the application within sixty-two (62) days of the public hearing and shall communicate its action, in writing, to the applicant, the Town Clerk, the Zoning Enforcement Officer, and other boards within five (5) days of its decision. When applicable, compliance shall be required in accordance with the provisions of Section 239-m of the General Municipal Law.

(x) The Recording Secretary of the Zoning Board of Appeals shall provide the Town Board with a copy of the minutes of the Board of Appeals.

(xi) The Zoning Enforcement Officer may, upon receipt of the notice of approval and upon application by the applicant, issue a zoning and/or building permit as applied for and approved by the Zoning Board of Appeals.

(b) Appeal Procedure

(i) An appeal shall be taken within sixty (60) days after the filing of any order, requirement, decision, interpretation or determination of the Zoning Enforcement Officer by filing with said official and with the Town Clerk a notice of appeal, specifying the grounds thereof and the relief sought. Such notice of appeal shall be filed on forms available from the Zoning Enforcement Officer. The cost of sending or publishing any notices relating to such appeal shall be born by the appealing party and shall be paid to the Town Clerk prior to the hearing of such appeal.

(ii) The Zoning Enforcement Officer from whom the appeal is taken shall, within seven (7) days of the filing of the appeal, transmit all papers constituting the record upon which the appeal is taken to the Board of Appeals.

(iii) The Board shall fix a reasonable time for the hearing of appeals and shall give due notice of the time set for the hearing to the applicant. Public notice shall be by the publication of a notice in the Official Newspaper of the Town and shall briefly describe the nature of the appeal and the time and place of the hearing. The Board or designee shall, at least five (5) days and no more than ten (10) days prior to the date of the hearing, give notice in writing by first class mail to all property owners within five hundred (500) feet of the property.

(iv) Any action by the Board of Appeals shall be stated in writing and communicated to the person bringing the appeal and the Town Clerk within five (5) days after the decision has been made.

(c) Rehearing

(i) A unanimous vote of the members of the Board of Appeals then present must occur to be able to rehear a previous decision.

(ii) A unanimous vote of the members of the Board of Appeals then present shall be necessary to reverse any order, requirement, decision, or determination.

Section 4.04 Board of Appeals Records

(a) Every rule, regulation, amendment, or repeal thereof and every order, requirement, decision, or determination of the Board shall immediately be filed in the Town Clerk's office as required by Section 267 of the Town Law of the State of New York. The Board of Appeals shall keep minutes of its proceedings, showing the vote, indicating such fact, and shall keep records of its examinations and other official action.

Section 4.05 Lapse of Authorization

(a) Any variance granted by the Board of Appeals shall be automatically revoked if a building and use permit, is not obtained within six (6) months of the date of approval by the Board of Appeals and construction commenced within one (1) year of such date of approval.

Section 4.06 Violation of Conditions or Restrictions

(a) Failure to comply with any condition or restriction prescribed by the Board of Appeals in approving any appeal for a variance, or a modification of regulations shall constitute a violation and shall be grounds for revocation of the variance

Article V. PLANNING BOARD

Section 5.01 Creation, Appointment, and Organization of Planning Board

(a) The Planning Board shall consist of five (5) members including a Chairperson and a Vice-Chairperson and two (2) alternate members all of whom shall be appointed by the Town Board as provided for in Section 271 of the Town Law. The Town Board shall

designate members of said Planning Board to act as Chairperson and Vice-Chairperson thereof, and upon its failure to do so; the Planning Board shall elect a Chairperson and a Vice-Chairperson from its own members. The term of office for regular members shall be governed by the applicable provisions of New York Town Law and the term of office for the alternate member shall be two (2) years. The Chairperson or Vice-Chairperson, in his or her absence, may designate an alternate member to substitute for a regular member in the event such member is unable to participate for any reason pursuant to Local Law No. 1-2004. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the board. Such designation shall be entered into the minutes of the initial meeting at which the substitution is made. All provisions of State Law relating to Planning Board member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any Town requirements related to training, compensation and attendance, shall also apply to alternate members.

(b) The Planning Board shall establish such rules and regulations as are required by law and the provisions herein for the transaction of their business, and may amend, modify, and repeal the same from time to time.

(c) The Town Board shall also appoint a Secretary who shall not be a member of the Board.

Section 5.02 Powers and Duties of the Planning Board

(a) The Planning Board shall have the following powers and duties:

(i) To prepare and from time to time change the Comprehensive Plan for the development of the Town. This provision shall not be construed to prevent the Town Board from appointing a Special Board pursuant to Section 272-a of the Town Law.

(ii) To review proposals to approve or disapprove the laying out, closing off, abandonment, or changes in lines of streets, highways, and public areas and to make recommendations to the Town Board.

(iii) To make investigations and reports relating to the planning and development of the Town, including changes in boundaries of districts, recommended changes in the provisions of this Town Law, and to act on any matter lawfully referred to it by the Town Board.

(iv) To review, act on or provide advisory reports as specified by this Town Law.

(v) All such powers as are conferred upon Town Planning Boards by the provisions of the New York State Town Law as now or hereafter in effect. These powers include, but are not limited to:

1) Site Plan Review
2) Special Use Permits
3) Review Variances
4) Emergency Housing Permits

Article VI. GENERAL PROVISIONS APPLICABLE TO ALL DISTRICTS

Section 6.01 Applicability of Regulations

(a) The provisions of this Law shall be subject to such exceptions, additions, or modifications as herein provided by the following general supplementary regulations. The

dimensions and restrictions as set forth in Table 1 of the Zoning Law of the Town of Byron are incorporated herein and made a part of this Local Law.

Section 6.02 Uses Not Permitted

(a) Uses not permitted by the Zoning Law of the Town of Byron are prohibited.

Section 6.03 Flood Plain Overlay Zone

(a) The Flood Plain Overlay Zone is used in the Town of Byron for information purposes only to identify potential areas of special flood hazard, to insure coordinated review of the zoning and flood damage prevention regulations, and to minimize the threat of flood damages. Exact boundaries of the special food hazard areas are set forth on the Federal Emergency Management Agency's (FEMA), most current Flood Insurance Rate Map (FIRM) or equivalent map for the Town of Byron. (Community Number 361139A)

(b) In addition to the Zoning Law, areas within special flood hazard areas are regulated by the Town of Byron's Flood Damage Prevention Local Law, which is administered by the Zoning Enforcement Officer or other designee of the Town Board. These requirements are in addition to those contained in the underlying zoning district.

Section 6.04 Preservation of Natural Features

(a) No structure shall be built within fifty (50) feet of the centerline of the bed of a stream carrying water on an average of six (6) months of the year, except for:

(i) Public bridges, water works, and other municipal or utility facilities.

(ii) Such private bridges, fords, drainage conduits, embankments, and similar structures as are necessary to permit access to a lot or portion thereof or as are incidental to a lawful use of a lot, provided that structure will not have a material adverse effect on the stream, nor alter the flow of water therein, nor substantially increase the likelihood of flood or overflow in the area.

(b) No person shall strip, excavate, or otherwise remove topsoil for sale or other use other than on the premises from which it was excavated or pursuant to a permit issued in accord with Section 1102 of this Local Law.

(c) Natural features shall be preserved whenever possible.

Section 6.05 Regulations Applicable to All Districts

(a) One Principle Building and Use per Lot- There shall not be more than one (1) principal use on any lot in the Agricultural (A), Agricultural-Residential (A-R), and Residential (R-1) districts except as provided for in the following:

(i) An approved multifamily dwelling project,

(ii) A single –family dwelling accompanying a non-residential use permitted on a lot in A-R and R-1 Districts,

(iii) A single-family dwelling accompanying a non-residential use requiring a Special Use Permit in A-R and R-1 Districts, if approved by the Planning Board as part of the Special Use Permit application process, provided there is only one use of a commercial

nature on the lot.

(b) Yard and Open Space for Every Building- No yard or other open space provided about any building for the purpose of complying with the provisions of these regulations shall be included as any part of the yard or open space for any other building; no yard or any other open space on one lot shall be considered as a yard or open space for a building on any other lot.

(c) Location of Accessory Buildings and Structures

(i) Accessory buildings and structures shall not be located within the front yard in Residential (R-1) Districts.

(ii) Accessory buildings are permitted as follows: (refer to Table 1)

1) The side yard and rear yard requirements for accessing any building shall be 5 (five) feet in all districts.

(iii) Swimming pools shall not be located in the front yard area and shall comply with the rear and side yard setbacks of a minimum of ten (10) feet.

(d) Every principle lot shall have direct access to a public street improved to meet Town requirements.

(e) Visibility at Intersections—On a corner lot in any district, no fence, wall, hedge, or other structure or planting more than three feet in height, shall be erected, placed or maintained within the triangular area formed by the intersection street lines and a straight line joining said street at points which are fifty (50) feet (except in R-1 and commercial district, thirty (30) feet) distance from the point of intersection, measured along said street lines. The height of three feet shall be measured above the road surface at the nearest edge of road traveled-way. This paragraph shall not apply to existing trees, provided no branches are closer than six (6) feet to the ground.

(f) No business establishment shall place or display goods for purposes of sale or permit any coin-operated vending machine within required set back, side yard or rear yard of the lot of any type to be placed in any location which would infringe upon the required yard areas specified in this Local Law. However, a temporary incidental road-side stand is not prohibited and is exempted from the yard and setback requirements for the Use District in which it is located.

(g) No manure, odor or dust-producing substances shall be permitted to be stored within one hundred (100) feet of any lot line of a NYS Certified Agricultural District.

(h) For the purpose of regulating the locations of any building on corner lots, and on lots extending through between two parallel streets, all portions of a corner lot or a through lot which fronts on a public street shall be subject to the front yard requirements of the zoning district in which said corner lot or through lot is located.

(i) Except for vehicular parking on driveways, open storage of boats, vehicles, travel trailers, or any other equipment shall not be within any setback, side yard or rear yard requirements in any district. In any event, such vehicles or equipment may not be stored closer than ten (10) feet from lot lines.

(j) When a new lot is formed so as to include within its boundaries any part of a former lot on which there is an existing building or use, the subdivisions must be carried out in such a manner as will not violate upon any of the provisions of this Local Law either with respect to any existing structures or use and any proposed structures or use and setbacks.

(k) Public buildings/use and grounds shall be subject to the area and yard requirements of this Local Law and to site plan review.

(l) Fences erected in the Town shall adhere to the following standards:

(i) No fence in a Residential District (R-1) shall be erected, altered, or reconstructed to a height exceeding three (3) feet above ground level when located within twenty-five (25) feet of the street right-of-way line. Beyond twenty-five (25) feet, fences may be up to six (6) feet in height.

(ii) Fencing used to enclose a tennis court may be permitted up to ten (10) feet in height provided that such fencing is not less than fifteen (15) feet from either the side or rear property line.

(iii) These restrictions shall not be applied so as to restrict the erection of a wall for the purpose of retaining earth.

(iv) No fence in a Commercial (C-1 or C-2) or Industrial District (I-1) shall exceed three (3) feet in height in front yards, or eight (8) feet in height in rear and side yards.

(v) No fence shall be erected to encroach on any property line or upon a public right-of-way.

(m) All buildings which contain devices which produce waste water and which are located outside a sewer district are required to obtain and maintain a permit from Genesee County Department of Health. Such a permit must be filed with the ZEO as a condition to the issuance of any Certificate of Compliance.

(n) Except for farm operations in a NYS Certified Agricultural District, no lot shall be used for the commercial storage or disposal of solid or liquid waste without the prior approval of the Town Board by Special Use Permit issued by the Planning Board. Duly approved individual sewage disposal systems shall be exempt from this provision. Town Board approval shall be given only upon a finding that the proposed use shall not have a detrimental effect upon surrounding properties and evidence of any required permits necessary from the Department of Health and/or the New York State Department of Environmental Conservation have issued and are in full force and effect. The Town Board may require the submission of any documents necessary to make the foregoing finding. Consistent with the provisions of paragraph G above, this provision shall not prohibit the storage of animal waste upon any farm in a NYS Certified Agricultural District.

(o) Any application for a building or zoning permit which proposes a change in the natural contours of the lot shall include a storm water drainage plan and shall comply with all Federal, State and Local laws, rules and regulations regarding storm water flows and retainage.

(p) Any structure damaged as the result of an emergency situation shall require a new Building Permit before any reconstruction is started.

(q) Junk Yards are not allowed in the Town of Byron.

Section 6.06 PERMITTED MODIFICATIONS

(a) Height Regulations (refer to Table I)

(b) Front Yard Exception (As set forth in Table I regarding setbacks)

Article VII. NON-CONFORMING USES

Section 7.01 Continuance

(a) Except as otherwise provided in this Article, the lawful use of land or buildings existing at the date of the adoption of this Local Law may be continued although such use or building does not conform to the regulations specified by this Local Law for the zoning district in which such land or building is located. The following provisions shall, however, apply to all non-conforming uses:

(i) A non-conforming lot shall not be further reduced in size.

(ii) A non-conforming building shall not be enlarged, extended, or increased unless such enlargement would tend to reduce the degree of non-conformance.

(iii) A non-conforming use (building or land) shall not be expanded except as may be authorized by Section 702.

(iv) A non-conforming use may be changed into a conforming use. When a non-conforming use is changed to conform to the requirements of this Local Law, the use of the building or tract of land shall not be changed again except in accordance with these regulations.

Section 7.02 Certification of Non-Conformance

(a) The Zoning Enforcement Officer may with or without cause inspect any building or lot which is or may by the enactment thereof become non-conforming and he shall so inspect a lot or building at the request of the owner thereof.

Section 7.03 Expansion of Non-Conforming Uses

(a) A non-conforming use shall not be expanded without authorization by the Board of Appeals and shall be considered on an individual case. The Board of Appeals shall issue or deny such requests as set forth in Sections 402-405, taking into consideration the following standards applicable to granting a permit authorizing the expansion of a non-conforming use:

(i) The location, size, nature, and intensity of the non-conforming use shall be in harmony with the orderly development of the district in which it is located.

(ii) The Board of Appeals may prescribe any condition that it deems to be necessary or desirable to aid it in making a determination on the application.

Section 7.04 Abandonment

(a) In any district, whenever a non-conforming use of land, premises, building or structure, or any part or portion thereof, has been discontinued for a period of one (1) year, such non-conforming use shall not thereafter be re-established, and all future uses shall be in conformity with the provisions of this Local Law.

Section 7.05 Maintenance and Restoration

(a) Any building damaged by fire or other unintentional causes shall be razed, repaired or

rebuilt within one year of the damage. In the case of a permitted restoration of a non-conforming use, such restoration shall not increase the degree of non-conformance.The non-conforming use to be required to conform if damage is more than 50% of assessed value.

Section 7.06 Construction Approval Prior to this Local Law

(a) A permit that has been duly granted before the date of adoption of this Local Law or any applicable amendment shall not require any change in plans, construction or designated use of a building complying with the Zoning Law in effect at the time the permit was issued.

Article VIII. ESTABLISHMENT AND DESIGNATION OF ZONING DISTRICTS

Section 8.01 Establishment of Districts & Overlay Zones

(a) The Town of Byron is hereby divided into Zoning Districts and Overlay Zones:

(i)	A	Agricultural District
(ii)	A-R	Agricultural Residential District
(iii)	R-1	Residential District
(iv)	C-1	Neighborhood Commercial District
(v)	C-2	General Commercial District
(vi)	I-1	Industrial District
(vii)	F-P	Flood Plain Overlay Zone
(viii)	L-C	Land Conservation District

Section 8.02 Zoning Map

(a) The Official Zoning Map shall be kept in the Office of the Town Clerk and it shall bear the seal of the Town of Byron, certifying that it is the Official Zoning Map of the Town of Byron and its date of adoption and/or amendments. Said Zoning Map shall show the boundaries of the Zoning Districts herein established and is hereby adopted by reference and declared to be a part of this Local Law.

Section 8.03 Interpretation of District Boundaries

(a) Where uncertainty exists with respect to the boundaries of any of the Zoning Districts as shown on the Official Zoning Map, the following rules shall apply:

(i) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.

(ii) Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines.

(iii) Boundaries indicated as approximately following the municipal limits of the Town shall be construed to follow such municipal limits.

(iv) Boundaries indicated as following the center lines of streams or other water bodies shall be construed to follow such center lines.

(v) Distances not specifically indicated on the Official Zoning Map shall be

determined by the scale of the map. Any disputes to these distances will be heard before the Board of Appeals.

(vi) Where physical or natural features on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Subsections A through E above, the Board of Appeals shall interpret the District Boundaries.

(vii) Land in right-of-way (ROW) of a dedicated road, street or highway for zoning should not be counted as measurable acres.

Article IX. DISTRICT REGULATIONS

Section 9.01 General District Regulations

(a) The regulations set by this Local Law shall be the minimum regulations within each district and shall apply uniformly to each class or kind of structure or use of land, as set forth in the following district regulations.

(i) No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.

(ii) All applications require a site plan review to be approved by the Planning Board, including conversions of existing dwellings.

Section 9.02 Agricultural District

(a) Intent

(i) The Agricultural (A) District is designed primarily to preserve productive farmland and secondarily to maintain the rural environment of the district. Agricultural and residential uses have a number of inherent conflicts between them. The purpose of this district is to minimize these conflicts by separating such uses by providing an area where agricultural uses are the primary uses permitted in the district. Active agricultural operations and agricultural-based business are the predominant uses established in the district. Such uses shall continue to be permitted in this district. Before a zoning or building permit can be issued for any building project, the Planning Board shall be required to do a site plan review, with preserving agricultural land as the main criteria.

(b) Permitted uses in the Agricultural District (A)

(i) Agricultural, agricultural accessory uses

(ii) Ponds with Soil & Water Conservation District approval

(c) Permitted in the Agricultural District (A) subject to the issuance of a Special Use Permit

(i) Communication towers

(ii) Wind Energy Conversion System

Section 9.03 A-R Agricultural Residential District

(a) Intent

(i) The Agricultural-Residential (A-R) District is designed to accommodate primarily agricultural uses in order to preserve the town's agricultural base and maintain its rural nature, but residential uses are permitted therein. It is recognized, however, that

agricultural and residential uses have a number of inherent conflicts between them. Individuals who plan to develop residential uses within the A-R District should be aware of such inherent conflicts and that residences are a secondary use. The primary intent would be to use marginal agricultural land for residential use in an effort to preserve more viable land for agriculture. See table (1) one.

(b) Permitted Principle Uses in an A-R District

(i) Agricultural, agricultural accessory uses and agricultural-based business
(ii) Single family dwelling and its accessory uses
(iii) Stable or Riding Applicable only to those uses not governed by Ag & Market
(iv) Veterinary Clinic
(v) Outdoor recreation facility (i.e. golf course, gun clubs, etc.)

(c) Permitted uses in an A-R District upon issuance of a Special Use Permit:

(i) Two family dwellings and its accessory uses
(ii) Multi-Family dwellings and its accessory uses
(iii) Public utility facility
(iv) Home occupations
(v) Professional office
(vi) Excavation operation
(vii) Private air strip
(viii) Campgrounds (See Section 1104)
(ix) Not for profit public and semi-public uses and buildings
(x) Religious institutions or schools
(xi) Kennel
(xii) Stable or Riding Academies only to those uses not governed by Ag & Market(see section 1109)
(xiii) Bed and Breakfast
(xiv) Commercial recreation uses
(xv) Wind Energy Conversion Systems
(xvi) Industrial Wind Turbine
(xvii) Commercial greenhouses
(xviii) Commercial communication towers
(xix) Cemetery
(xx) Self service storage facility
(xxi) Contractor's yard
(xxii) Club
(xxiii) Lumber and wood products
(xxiv) Boarding Houses
(xxv) Accessory Apartment

(d) In addition to the conditions set forth in Section 303 (F) for a Special Use Permit, the following conditions shall apply to keeping of livestock in an Agricultural Residential District:

(i) Occupants of a single family residence in an Agricultural Residential (A-R) Districts shall be permitted to keep horses or livestock for their own personal use as an accessory use, provided there is compliance with the following standards and

conditions:

1) No such use shall be permitted on lots having less than three (3) acres of land.
2) The number of horses and livestock permitted on each lot shall not exceed the following: one horse or livestock (in any aggregate combination) for the first three acres of lot area plus one additional horse or livestock for each additional acre of lot area.
3) A waste management plan must be submitted. No manure shall be stored or permitted to accumulate within one hundred (100) feet from any boundary line or within twenty-five (25) feet from a dwelling on the same lot, or within one hundred twenty-five (125) feet from a dwelling on any adjacent or other lot (see Article II).
4) If any of the requirements of this Local Law are not complied with by the resident occupants, the accessory use here permitted shall, upon order of the Zoning Enforcement Officer, be discontinued until such time as the conditions which do not comply are remedied to the satisfaction of the Zoning Enforcement Officer.

Section 9.04 R-1 Residential Districts

(a) Intent.
  (i) The purpose of the Rural (R-1) District is to promote orderly development of the Town and to encourage well designed living environments which protect and stabilize the residential character of the town.
(b) Permitted Principle Uses in an R-1 District
  (i) Single family dwellings and its accessory uses
  (ii) Two-family dwellings and its accessory uses
  (iii) Agricultural uses provided sound agricultural practices are used, excluding the storage of manure and stabling of farm animals outside of a NYS Certified Agricultural District
(c) Restriction on Accessory Uses in an R-1 District
  (i) No more than two (2) accessory buildings primarily used for storage shall be permitted on any residential property.
(d) The following uses are permitted in an R-1 District upon issuance of a Special Use Permit.
  (i) Home occupations
  (ii) Professional office
  (iii) Not for profit public and semi-public uses and buildings.
  (iv) Bed and Breakfast.
  (v) Cluster residential developments.
  (vi) Child daycare center
  (vii) Adult care facilities
  (viii) Multi-family dwellings
  (ix) Dwelling accessory apartment

Section 9.05 C-1 Neighborhood Commercial District

(a) Intent.

(i) The purpose in creating the Neighborhood Commercial-1 (C-1) District is to provide locations where establishments may be appropriately located to serve frequent commercial and personal service needs of residents within convenient traveling distance. Other business uses which, in the opinion of the Planning Board, are similar in nature and scale to those permitted below.

(b) Permitted Principle Uses in a C-1 District

(i) Retail business establishments which are clearly of a community service characteristic that would not exceed six patrons or four vehicles including, but not limited to, the following:

1) Professional offices
2) Bed & Breakfast
3) Antique shops
4) Hobby shop
5) Retail Trade and/or Service
6) Banks
7) Barber or Beauty shop
8) Bakery
9) Public utility facility
10) Other businesses that are similar in nature and scale

(c) The following uses are permitted in a C-1 District upon the issuance of a Special Use Permit:

(i) Automobile car wash
(ii) Medical Clinic
(iii) Printing and publishing establishment
(iv) Signs and advertising specialties

(d) Other Provisions and Requirements for the C-1 District

(i) No commercial structure shall be permitted within fifty (50) feet of the nearest lot line of any Residential (R-1) District.

Section 9.06 C-2 General Commercial District

(a) Intent.

(i) The purpose in creating the General Commercial(C-2) District is to provide locations where larger establishments may be appropriately located to serve frequent commercial personal service needs.

(b) Permitted Principle Uses in a C-2 District

(i) Retail business establishments in the opinion of the Planning Board, are similar in nature and scale to those permitted, but not limited to, the following:

1) General Retail Establishments

(c) The following uses are permitted in a C-2 District upon issuance of a Special Use Permit

(i) Veterinary Clinic
(ii) Theatre, bowling alley and other forms of indoor recreation
(iii) Community Center

(iv) Recreational Vehicle Sales and Service
(v) Light manufacturing (within the building)
(vi) Gas stations/convenient store
(vii) Hotels and Motels
(viii) Funeral Homes
(ix) Car dealers
(x) Contractor yards
(xi) Motor vehicle service stations
(xii) Motor vehicle repair/collision shops
(xiii) Agri-based businesses

Section 9.07 I-1 Industrial Use District

(a) Intent.
(i) The purpose of the Industrial (I-1) District is to provide for the establishment of industrial uses essential to the development of a balanced economic base, to create local job opportunities in an industrial environment and to regulate such development so that it will not be detrimental or hazardous to the surrounding community and to the general health, safety, and well-being of the Town of Byron.
(b) Any use of light industrial or agri industrial nature is permitted which involves only the processing assembly, compounding, or packaging of previously prepared or refined materials, provided that at no time will such use result in or cause:
(i) Dissemination of dust, smoke, smog, observable gas, fumes or odor, or other atmospheric pollution, noise, glare, or vibration beyond the property line.
(ii) A condition determined by the ZEO to be hazardous to any adjacent property.
(iii) Violation of any Federal, State or Local environmental law, rule regulation or order. The determination of violation by any enforcement agency or department shall constitute a violation of this Local Law and the revocation of any permit or certificate issued pursuant hereto. No new permit or certificate shall be issued unless and until all conditions found by such enforcement agency to be violation are corrected as determined by said agency.
(c) Permitted Principle Uses in I-1 District
(i) Light Industrial/Agri-Industrial Uses
(ii) Light industry and manufacturing
(iii) Manufactured/modular home sales and service
(iv) Equipment/Machinery sales and service
(v) Chemicals and allied products
(vi) Tool and die/fabrication
(vii) Manufactured/molded foam products
(viii) Truck and Transportation terminal
(ix) Construction/Contractor yard
(x) Warehouse/Wholesale Trade
(xi) Commercial storage buildings for rent.
(d) The following uses are permitted in an I-1 Industrial District upon issuance of a Special

Use Permit. Site Plan Review by the Planning Board is required by all businesses in an I-1 Industrial District.

(i) Industrial Wind Turbines

(ii) Wind Energy Conversion Systems

(iii) Adult Uses

(e) Other Provisions and Requirements

(i) Residential uses shall be prohibited in this District, except for a caretakers' residence or site.

(ii) All industrial processes shall take place within an enclosed building. Incidental storage out of doors may be permitted provided that such materials are shielded from view from public streets and adjacent off-street parking areas by fencing, landscaping, or other appropriate measures.

(iii) All uses permitted in this District shall set aside not less than twenty (20) percent of the lot to be devoted to seeding, planting, retention of tree cover, or other landscaping, and storm water retention. This area shall be used for no other purpose.

(iv) To permit the transfer of goods in such a manner as will not adversely affect traffic on adjoining streets render any parking area or part hereof unusable or take place in front of the building.

(v) Industrial structures shall be located so as to be a minimum of one hundred (100) feet from any Non-Industrial District. This one hundred (100) foot buffer strip shall be perpetually maintained so as to provide visual screening and separation between industrial and non-industrial uses.

(vi) Parking areas may be located in any of the required yard areas provided they are not less than fifty (50) feet from a right-of-way line or twenty (20) feet from a property line.

(vii) All proposals for rezoning to industrial use shall comply with the following requirements:

1) The proposed rezoning shall be consistent with the goals and objectives of the Town Comprehensive Plan.

2) The Town Board shall determine that the street system serving the proposed industrial use is adequate to carry the anticipated traffic flows and that the use will not create a burden or nuisance for adjoining property owners.

3) The Town Board shall determine that the physical character of the site proposed for rezoning to industrial use is adequate to accommodate the proposed use.

4) The proposed rezoning shall conform to the procedures set forth in Article I, Section 105, A-F.

5) The review and approval of site plans, the application of development standards and the regulations pertaining to water supply, sewage disposal, and storm drainage shall conform with the appropriate requirements and procedures set forth in this Law.

Section 9.08 Planned Unit Development (PUD) District

(a) The purpose of the Planned Unit Development District is to permit greater flexibility,

more creative and imaginative design and utilization of innovative land development techniques while promoting more economical and efficient use of land, buildings, circulation systems and utilities, to provide harmonious land uses which offer a high level of amenities, to permit a mixture of residential and/or non-residential uses, and to preserve natural and scenic qualities of the site during the development process.

(i) Procedure for Creation of a PUD District

1) The owner of any tract of land in the Town of Byron consisting of a minimum of five (5) contiguous acres, may petition the Town Board through the Planning Board to designate the property described in the petition as a PUD District.

2) The petition shall contain the exact name and address of the petitioner and reference records in the office of the Genesee County Clerk at which the deed conveying the property in question to the petitioner is recorded.

3) A PUD District may be created by the Town Board in accordance with the procedures detailed in Subsection B of this Section.

(ii) Procedure for Approval

1) Pre-Application Conference

a) Before submission of a preliminary application for approval as a Planned Unit Development, the developer is encouraged to meet with the Town Planning Board to determine the feasibility and suitability of their application before entering into any binding commitments or incurring substantial expenses of site plan preparation.

2) Preliminary Plan (Rezoning)

a) Planning Board Review and Approval—A preliminary plan application shall be submitted to the Planning Board at least 15 days prior to a regularly scheduled meeting. Within sixty (60) days following the first meeting after submission of the plan, the Planning Board shall recommend approval, approval with modifications or disapproval of the application to the Town Board. Failure by the Planning Board to act within the required time period shall constitute approval and the application shall be forwarded to the Town Board.

b) Submission Requirements—The applicant shall submit to the Zoning Enforcement Officer, six (6) sets of such plans, drawings, elevations, and shall be at least the same as the requirements for a subdivision plot approval.

3) The preliminary plans must be accompanied by a written description of the proposal and such other maps, charts, data to enable the Planning Board to make a judgment as to the suitability of and impact of it upon the town. Such material may include the following:

a) A map showing:

i) The size and location of the parcel to be converted to a PUD.

ii) The size and location of all public areas and services(i.e. highway right of ways, public utilities, areas devoted to industrial uses, open spaces, parks, etc.)

iii) The number and types of residential structures or dwelling units with the residential area, together with the proposed lots.

iv) The number and types of commercial structures or units within the commercial area, together with the proposed lots.

v) The proposed plan for any parks and open spaces.

b) A written description of the proposal including the major planning assumptions and objectives, the probable effect on adjoining properties, the effect on the overall town development plan and the effect on this Local Law..

c) Such additional written material, graphs or charts as are necessary to present the total number of acres in the site, the number and type of housing units, the gross and net residential densities, the approximate selling and/or rental prices of the units, and square feet of nonresidential floor area including the approximate selling and/or rental price, the development schedule expressed in units per month (or year or any other appropriate time sequence), the phasing plan (if any), the approximate completion date of the entire project, and the estimated total construction cost of the project upon completion.

d) Such other written or graphic material as is necessary for the Planning Board to judge the impact of the proposal on the town. Such material shall include, but not be limited to: the need for new public facilities and the adequacy of existing facilities including a statement of the intent to which the applicant intends to provide needed facilities, a fiscal impact statement including a summary of new costs and revenues to the town due to the development, the projected new population, and the method of assuring that all open spaces will be permanently maintained and devoted to open space uses.

4) Review Considerations—In review of the preliminary plans, the Planning Board shall consider the manner with which the proposal fits the general pattern of land use established by the Comprehensive Plan and Zoning Law, and the protection of the established and permitted uses in the area. It shall consider the location of main and accessory buildings and their relation to one another; the traffic circulation pattern of the site, and the amount, location, and access of parking and off-street loading space facilities; the height and bulk of buildings; the provision of open spaces, landscaped areas, signs, and similar features of the site plan; and the safeguards provided to minimize possible detrimental effects of the proposed development on adjacent property and the surrounding neighborhood; the manner conformance with the official development policies of the Town; the effect on schools and other municipal facilities; and the manner in which natural and scenic characteristics of the site are preserved.

5) Within the sixty- two (62) days required by subparagraph B (2) above, the Planning Board shall submit its report to the Town Board. At the meeting following receipt of the Report, the Town Board shall submit the Plan and Report to the County Planning Board for its recommendation. At the meeting following the receipt of the recommendation of the County Planning Board, The Town Board shall call a public hearing not less than fifteen (15) days nor more than thirty (30) days thereafter to consider the Report. Within thirty (30) days following the public hearing on the Report, The Town Board may amend the Zoning Law to create the Planned Unit Development Zone and define its boundaries or vote not to so amend the Zoning Law. Failure of the Town Board to act within said thirty (30) day period shall constitute a rejection Report. Approval of the Plan and amendment of the Zoning Map shall not constitute permission to construct any improvement on or in the Planned Unit Development.

(iii) Final Plan

1) Ownership—Before final approval of the PUD, the applicant must show evidence of the full legal ownership in the land.

2) Planning Board Review and Approval—Upon approval of the zone change, the applicant has one year in which to submit a final plan to the Planning Board for review and recommendation to the Town Board. This submittal must be presented at least fifteen (15) days prior to the next regularly scheduled meeting of the Planning Board. Within sixty two (62) days of the next regularly scheduled meeting, the Planning Board shall recommend approval, approval with conditions or disapproval of the application to the Town Board.

3) Submission Requirements—The applicant shall submit detailed site plans comparable to the requirements for final approval of a Subdivision/land separation plot.

4) Town Board Review and Approval—The Town Board shall make final approval in accordance with official town development policies and may impose reasonable conditions relating to that plan.

(iv) Design Standards

1) Area Requirements

a) Area, yard, coverage, height, density and supplementary regulation requirements shall be comparable to minimum requirements in appropriate zoning districts for each specific use, except where the Planning Board finds that it is in the public interest to modify these requirements.

2) Traffic and Circulation

a) All proposed public roads should meet municipal design and construction specifications. Special consideration should be given to pedestrian movement from the standpoint of safety, convenience and amenity. Sidewalks, curbs and gutters should be considered in the design of the overall circulation system. A proposed Deed dedication shall be submitted in the event that roads and streets are to be dedicated to the Town.

3) Common Open Space

a) All common open space should be preserved and maintained for the intended purpose through one or more of the following methods:

i) Public dedication.

ii) Establishment of a Home Owners Association.

iii) Retention of responsibilities, control and maintenance by the developer.

4) Performance and Maintenance Bonds

a) Performance and maintenance bonds may be required in the discretion of the Town Board.

Section 9.09 F-P Flood Plain Overlay Zone—FPO

(a) The Flood Plain Overlay (FPO) Zone is shown on the Zoning Map of the Town of Byron to identify potential areas of special flood hazard, to insure coordinated review of zoning and flood damage prevention regulations, and to minimize the threat of flood damages.

Exact boundaries of the special flood hazard areas can be found on the Federal Emergency Management Agency's (FEMA) most current Flood Insurance Rate Map (FIRM), or equivalent map for the Town of Byron. The intent is to not have any new development in the Flood Plain Overlay Zone.

(b) The following uses are permitted by Special Use Permit:

(i) Golf courses

(ii) Outdoor recreation

(iii) Parks/playgrounds

(iv) Agricultural and agricultural accessory uses outside a NYS Certified Agricultural District

Section 9.10 Land Conservation (L-C) District

(a) Intent

(i) The purpose of the Land Conservation (L-C) District is to prohibit building in the areas within said Districts.

(b) Permitted uses in a Land Conservation District might include, but not limited to:

(i) Park and recreational uses including hiking and biking trails, picnic areas, cross country ski trails, snowmobile trails, and horse-riding trails.

(ii) Agricultural and agricultural accessory uses

Article X. SUPPLEMENTARY REGULATIONS

Section 10.01 Off-Street Parking Regulations

(a) All buildings erected, altered or for which the use is changed in all Districts shall be subject to the following Regulations. Any existing buildings shall not be subject to the Regulations unless and until the building, parking areas or use is changed.

(i) Design Requirements

1) Off-street parking space shall be provided to all buildings as set forth in Section 1001 below and shall be located on the same lot as the building to which they are associated and/or within two hundred (200) feet thereof.

2) All parking spaces shall be at least ten (10) feet in width and at least twenty (20) feet in depth exclusive of the area of the accessway or maneuvering space.

3) No parking space or the accessway or maneuvering space shall be located in any street or highway right-of-way or be so designed or designated that ingress or egress from the parking space is not in, on or over any sidewalk.

(ii) Access to all parking spaces shall be from designated driveways or accessways.

(iii) All parking areas containing more than twenty (20) parking spaces shall have designated for lanes and/or no parking areas as set forth on the approved Site Plan.

(iv) All parking areas shall be adequately drained and surfaced with a dustless, durable, all weather surface as set forth in the approved Site Plan.

(v) No lot in an R-A or R District used for residential purposes shall be permitted more than two (2) driveways, which driveway or driveways shall be not less than twenty(20) feet in width at ROW.

(vi) Lots in commercial and industrial districts shall have the number and width of

driveways designated by the approved Site Plan.

(vii) All driveway cuts are subject to the approval of the authority having jurisdiction over the highway.

1) Planning Board can modify the parking space requirements per the Site Plan Review process.

Section 10.02 Required Off Street Parking

(a) Each type of use shall have the required off street parking space set forth in the chart below:

TYPE OF USE	REQUIRED OFF-STREET PARKING SPACE
Residential	
Single and Two Family Dwelling	Two (2) parking spaces per dwelling unit
Multiple family dwelling	Minimum of 2 parking spaces per dwelling unit, additional parking spaces may be required by the Planning Board
Home Occupations	Two (2) spaces for client uses, in addition to the off-street parking spaces required for the dwelling. Additional spaces may be required by the Planning Board.
Commercial	
Motels and Hotels	One (1) parking space per unit plus four (4) additional for personnel and employees.
Business, Professional and Medical/Dental Offices, Retail and Service Shops	One (1) parking space for every two hundred (200) square feet plus one (1) additional for each employee.
Banking Offices	One (1) parking space for every one hundred (100) square feet of gross floor area or major fraction thereof. Drive-in windows shall have sufficient space to adequately handle five (5) cars, separate and apart from any required parking spaces. Additional spaces may be required by the Planning Board.
Business and Commercial uses	One (1) parking space per 200 square feet of gross floor area. Additional parking may required by the Planning Board.
Supermarkets, Restaurants, Laundromats and Self-Serve Food Marts, Funeral Homes, Mortuaries	One (1) parking space for every one hundred (100) square feet of gross floor area and one (1) parking space for each employee.
Motor Vehicle Service Stations and Public Garages	See Section 1101
Industrial	
Industry	One (1) parking space for each employee, plus additional parking as required by the Planning Board to account for any shift overlap or the nature of the business.
Unspecified Uses	As required by the Planning Board, based upon intensity, turnover, customers and unloading.

Off-site Parking	Required off-site parking areas for the above permitted uses may, under unusual circumstances and hardship, be located off-site provided that the parking area is not more than four hundred (400) feet from the premises of the principle building or use to be served by such areas, and provided that the owner or owners of said off-site parking areas relinquish all development rights over this property until such time that parking space is provided elsewhere.
Places of Public Assembly	One (1) parking space for every three (3) seats or one (1) parking space for every one hundred (100) square feet of gross floor area, whichever is greater.
Joint Use	The off-street parking requirements of two or more uses, structures, or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap in point in time. If the uses, structures, or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract, or other appropriate written document to establish the joint use.

(b) If any proposed use does not come within the uses specified herein, the Planning Board shall determine the number of parking spaces to be required for such proposed use

(c) Buffer Area

(i) Where in any district, a non-residential use abuts a residential use, a buffer zone shall be provided by the applicant if such height, depth and length and such plantings as are set forth on the approved Site Plan.

(ii) Any parking area of six (6) or more vehicles shall have a buffer zone of such height, depth and length and such plantings as are set forth on the approved Site Plan.

(d) Lighting

(i) All off-street parking areas, sidewalks and driveways (excluding areas serving one and two family dwellings) shall be illuminated adequately during the hours between sunset and sunrise when the use is in operation.

(ii) Any lights used to illuminate an off-street parking area shall be so arranged as to reflect the light away from all adjoining property.

Section 10.03 Loading Regulations

(a) Every building located in a commercial or industrial zone is required to install and maintain adequate space for off-street loading and unloading of delivery vehicles. Such space shall be in such location of such size and shape as is set forth on the approved Site Plan.

Section 10.04 Sign and Billboard Regulations

(a) General Provisions

(i) No sign may because if its design, location, state of repair, or condition impair public safety.

(ii) No sign shall be located that it impairs the sight line from any street or road to any other street or road or to or from any sidewalk to any street or road.

(iii) No sign may be located, lighted or designated in any manner which could cause it to be confused as a traffic light or traffic control device.

(iv) No sign shall impede the operation of any door, window, fire escape or any other ingress or egress to any building.

(v) Illuminated signs may not shine or reflect light onto or into adjacent property.

(vi) Except for emergency vehicles or facilities, flashing, oscillating, or revolving lights are not permitted.

(vii) No permit issued pursuant to this Local Law shall authorize the installation of any sign in any State Highway right –of– way.

(viii) Off-premises business and/or advertising signs shall not be permitted in any district.

(b) Signs Permitted in all Districts

(i) Signs designating a Home Occupation shall be permitted on the lot which the Home Occupation is conducted but shall neither exceed nine (9) square feet nor be located closer than ten feet (10) from the highway right-of-way or any property line.

(ii) Signs giving directions to public facilities (i.e. fire stations, medical treatment facilities, post offices, ambulance stations, public parking areas, etc.)

(iii) Temporary signs not exceeding nine (9) square feet in the A, AR,R-1 and C-1 Districts nor sixteen (16) square feet in the 1-1 or C-2 District provided:

1) No such sign shall be installed or displayed more than sixty (60) days prior to the first day of the event, and

2) All such signs shall be removed with ten (10) days of the last day of the event.

(c) Non-Conforming Signs

(i) No such non- conforming signs shall be enlarged, extended, relocated, or altered in any manner and shall be removed in the event the use advertised on the sign is discontinued or changed. Normal maintenance such as painting and replacement of parts shall not be interpreted as violation of this provision.

(d) Signs Permitted in Agricultural, Agricultural-Residential, and Residential Districts

(i) One (1) on-premise sign identifying a church, public building or other permitted non-commercial use located no closer than ten (10) feet from a property line with a maximum size of eight (8) feet wide x six (6) feet length in area per side. Two (2) off-premises (non-commercial) directional signs located no closer than ten (10) feet from the property line with a maximum size of nine (9) square feet per side.

(ii) One (1) on premises sign for uses which have a valid Special Use Permit to operate. Such sign may either be wall mounted with a maximum size of nine (9) square feet, or freestanding with a maximum size of nine (9) square feet per side. Freestanding signs shall be limited in height to 15 feet and not be located within five (5) feet of a

property line. The final location/placement of all signs for uses allowed by Special Use Permits in the R-1 and A-R Districts shall be determined by the Town Planning Board on said Special Use Permit.

(e) Signs Permitted in General Commercial and Industrial Districts

(i) Freestanding business signs shall be permitted. Such signs shall conform to the following provisions relating to their size and number:

1) Each business or industrial use may have one (1) free-standing sign. Such free-standing sign shall have an area of neither more than 25 feet nor be more than twenty-five (25)feet in height and be located not less than ten (10) feet from the property lines. Sign location subject to site plan approval by the Town Planning Board.

2) In a shopping center or industrial park there may be one directory sign at any location thereof which shall not exceed five (5) square feet for each business in the shopping center or industrial park provided that no such sign shall exceed thirty (30) square feet in area. No individual free-standing sign shall be allowed in a shopping center.

(ii) Off-premise direction signs shall be of such area and in such location as may be determined in the discretion of the Planning Board.

(f) Signs Prohibited

(i) The following types of signs are prohibited and shall not be permitted, erected, or maintained in any zoning district and the owner thereof shall upon written notice of the Zoning Enforcement Officer forthwith, in the case of immediate danger and in any case within not more than ten (10) days, make sure such sign conform with the provisions of this section or shall remove it. If within ten (10) days the order is not complied with, the Zoning Enforcement Officer may cause said sign to be removed at the expense of the owner.

1) Any sign which by reason of its size, location, content, coloring or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers, or by obstruction or detraction from the visibility of any traffic control device on public streets and roads.

2) Any sign which obstructs free ingress to or egress from a required door, window, fire escape or other required exit way.

3) Signs which make use of words such as "STOP", "LOOK", "DANGER" and other words, phrases, symbols or characters, in such a manner as to interfere with, mislead or confuse traffic.

4) Any sign which has any visible moving part, for example visible revolving parts or visible mechanical movement of any description (except time and temperature revolving signs as allowed) or other apparent visible movement achieved by electrical, electronic or kinetic means, including intermittent electrical pulsations, or by action of normal wind currents.

5) It shall be unlawful to have any sign insecure, unsafe or unlawfully installed, erected or maintained

Section 10.05 Entrance and Exits Designations

(a) Signs designating the entrance or exit from any commercial or industrial use shall be located no closer than 15 feet to any highway or street intersection.
(b) Permits for all such signed to be located on any New York State highway shall be subject to any permit issued by the New York Department of Transportation.

Section 10.06 Access Control

(a) In order to limit the number of driveways entering or exiting any street or highway, the Planning Board is hereby empowered to approve, modify or disapprove all Site Plans for non-residential uses based on the number of such driveways proposed on the Site Plan in relationship to those existing in the vicinity of the lot which is the subject of the Site Plan review. In order to make such a determination, the Planning Board may require a drawing made to scale of the street or highway within 500 feet of the lot which is subject to the Site Plan review.

Section 10.07 Private Swimming Pools

(a) All swimming pools shall be subject to the issuance of Building/Zoning Permit.
(b) No swimming pool shall be located in the front yard of any lot and no closer than ten (10) feet from any side or rear lot line.

Article XI. REGULATIONS GOVERNING SPECIAL PERMIT

Section 11.01 Motor Vehicle Service Stations and Public Garages

(a) Motor vehicle service stations and public garages may be permitted as special permit uses in the C-2 District upon the approval of a Special Use Permit by the Planning Board.
(b) In addition to the information required in the special permit application and enumerated in Article III herein, the site plan submitted shall also show the location and number of fuel tanks to be installed, the dimensions and capacity of each storage tank, the depth the tanks will be placed below the ground, and the number and location of fuel pumps to be installed.
(c) The Site Plan must comply with all local, State or Federal Laws.
(d) The Site Plan for all motor vehicle service stations and motor vehicles repair/collision shops shall provide a buffered area taking into consideration traffic patterns on the lot and potential headlight glare, all in accord with Section 905 of this Law
(e) The entire area of the site traveled by motor vehicles shall be concrete or blacktop.
(f) Operations to be enclosed or screened. All service, repair, painting or assembly activities, other than emergency repairs or such minor servicing as the sale of gasoline or oil, or replacement of batteries, bulbs or headlights, wiper blades and the like shall be conducted in a fully enclosed structure or completely screened from view from any adjacent public right-of-way or adjoining residential property. This requirement shall be construed to mean that no lifts or pits or other equipment for the service, assembly or repair of vehicles, shall be located or maintained anywhere on the premises except in a fully enclosed structure or fully screened from view as provided above. No service, repair, painting or assembly activities shall take place within any required buffer area or in any required front yard area.

(g) Canned or bottled lubricants, anti-freeze additives and similar products may be displayed on the pump island and in front of the station provided that they are placed in suitable racks or stands.

(h) In addition to the signs permitted by Article X hereof, motor vehicle service stations may also exhibit one (1) temporary sign for a period of up to forty-five (45) days setting forth special seasonal servicing of automobiles. Such temporary sign shall not exceed nine (9) square feet in area, be located not less than ten (10) feet inside the property line and shall be removed when no longer current.

(i) No motor vehicle service station or public garage may park or locate more than three (3) unregistered vehicles outside of an enclosed building at any one time.

(j) No driveway shall be located closer than fifty (50) feet from any street intersection and no lot containing a motor vehicle service station or repair or collision shop shall have more than two (2) driveways (one for entering traffic and one for exiting traffic) on any street adjoining the lot. Driveways shall not have a combined width of more than one- third (1/3) of the total frontage on any street.

(k) No parking shall be permitted in the Right-of-way (ROW) and sidewalks around or near the service station/garage or within any required buffered area.

(i) No vehicle shall be parked in required ROW or buffer area established.

(l) Waste, rubbish and refuse resulting from any operation performed on premise shall be in a screened, enclosed area. Storage of any parts or supplies associated with the business shall also be in a screened, enclosed area.

(i) Screening requirements:

1) Solid fence or wall such as a stockade or chain-link fence with inserts for blocking the view.

2) A buffer zone of vegetation/shrubs shall be permitted.

3) Such screening and buffer areas shall be subject to approval by the Planning Board through a Special Use review and/or the Site Plan review process.

4) The Planning Board may modify and adjust any such screening or buffer zone and/or impose additional requirements in light of industrial circumstances.

(m) All vehicles shall be parked in an orderly fashion so as to permit the free circulation of vehicles and so, as to at all times, preserve access to the premise by emergency vehicles.

(n) Lighting: all exterior illumination shall be placed and maintained so as to direct the light away from adjoining properties or public right-of-ways. (See Article X, Section 1001A)

(o) Compliance: Any Motor Vehicle Service Station use existing at the time of the enactment of this section shall be a pre-existing, non-conforming use and exempt from the requirements of this section.

Section 11.02 Excavation Operations

(a) Excavation operations are not permitted in an Agricultural-Residential (A-R) District

(b) The removal of soil, sand, or gravel for sale, except when incidental to, or connected with the construction of a building on the same premises shall be permitted only upon the approval by the Planning Board of a Special Use Permit and Site Plan Review.

(i) In its consideration of an application for a Special Use Permit, the Planning Board must determine that such excavation will not:

1) endanger the stability of adjacent land or structures, or

2) constitute a detriment to public health, safety, convenience or welfare by reason of excessive dust, noise, traffic, erosion, siltation or other condition.

(ii) In granting a permit the Planning Board shall specify any reasonable requirements for those commercial excavations not directly regulated by the NYS department of Environmental Conservation pursuant to Title 27, Article 23 of the Environmental Conservation Law.

(iii) Commercial excavations regulated directly by NYSDEC shall comply with the requirements set forth by DEC together with any Town requirements which may be

(iv) applied to similar industrial types of uses.

(v) Planning Board specifications for commercial excavations not directly regulated by DEC shall include such conditions as may be necessary to protect the public health safety, convenience and welfare, including the following:

1) State Permits—The applicant shall furnish a valid permit from the New York State Department of Environmental Conservation pursuant to Title 27, Article 23 of the Environmental Conservation Law when applicable.

2) Slope—Slopes in excess of 1:1 shall be adequately fenced.

3) Minimum lot area shall be ten (10) acres.

4) Minimum one- hundred (100) setback from any street or property line for all buildings or excavation.

5) Dust—All storage areas, yards, service roads, or other untreated open areas within the boundaries of the excavation area shall be so maintained and improved as to minimize dust and other windblown air pollutants.

6) Existing hills, trees and ground cover fronting along public roads or adjacent property shall be preserved, maintained and supplemented by selective cutting, transplanting, and addition of new trees, shrubs and other ground cover for the purpose of screening and noise reduction. If, however, the existing topography and natural vegetation does not lend itself to an economically feasible supplement plan, the operation can, if properly landscaped with grass, trees and shrubs, grade back overburden around the perimeter of the excavation site to create a "berm" for the purpose of screening and noise reduction. No berm shall be constructed within fifty (50) feet of any front right-of-way or twenty five (25) feet of any side or rear property line.

7) Fencing may be required to adequately protect the excavation site.

8) All operations shall be conducted between the hours of seven o'clock in the morning (7:00 a.m.) and six o'clock in the evening (6:00 p.m.) with no Sunday or holiday operations, or except in the case of public or private emergency or whenever any reasonable or necessary repairs to equipment are required to be made.

9) Reclamation Plan—The applicant shall submit a reclamation plan for reclaiming the affected land, including a graphic and written description of the proposed use for all affected land, the method of reclamation and a schedule for performing reclamation. Where feasible, reclamation shall be a continuing operation. Grading, topsoil replacement and replanting of the area designated for restoration shall continue during the permit period. All reclamation work shall be complete within one (1) year after the termination of operations, at the expense of the operator.

10) A performance bond, letter of credit or some other financial guarantee may be required to assure that the conditions stipulated in the approval of the Special Use Permit are carried out.

11) Drainage and erosion control—As part of the application process, the applicant's plan shall be submitted to the DEC/Genesee County Soil and Water Conservation District for its review and comments. All surface drainage and any waste matter shall be controlled to prevent any silt, waste products, process residues, etc. from flowing on to public roads, adjacent property or into any stream. Excavation areas shall be

planned and graded to avoid collections of stagnant water.

12) Duration—The Special Use Permit shall continue as long as its New York State Department of Environmental Conservation permit remains in effect, it complies with the terms thereof, and it meets the reclamation standards established by the New York State Department of Environmental Conservation.

13) If operations are not carried out continuously for one (1) year the site shall be considered abandoned, pending the notification process described in Section 302F(4) and prior to any further excavation, a new Special Use Permit and Site Plan shall be required. Any loss of performance bond will also require a new Special Use Permit and Site Plan.

14) Prior to taking action on any proposal for a permit under this section, the Planning Board may request and receive a written report from the Town Engineer on the adequacy and/or appropriateness of the proposed excavation. Any fees associated with the review by the Town's Engineer shall be borne by the applicant prior to Special Use Permit and Site Plan.

Section 11.03 Airstrips

(a) All permits for airstrips shall be Special Use Permits and subject to the requirement for the issuance thereof.

(b) An application for the establishment, construction, enlargement, or alteration of an airstrip shall include, in addition to requirements for Special Use Permits outlined in Article III, the following statements and information:

(i) Name and address of the applicant

(ii) Classification of the proposed airport (commercial, non-commercial or restricted)

(iii) Type of aviation activities proposed (aircraft sales and service, flight instruction, crop dusting, air taxi, etc.)

(iv) Number of aircraft expected to be based at the airport initially and within five (5) years

(v) Type of aircraft expected to be based at the airstrip (single engine, multi-engine, turboprop, jet, etc.)

(vi) Whether an instrument approach procedure will be offered

(vii) Statement as to the anticipated number of daily operations

(viii) Copy of the airspace clearance granted by the Federal Aviation Administration for this airport, including USGS Topographic Map

(ix) A copy of the New York State Commissioner of Transportation's determination concerning this airport in accordance with the provisions of Section 249 of the New York State General Business Law.

(x) A site development plan of the airstrip, as approved by the Planning Board, may include the following: scale, structures (existing and proposed), alignment of existing and/or proposed runways, existing and proposed contours in five (5) feet intervals, location of aircraft parking/tie-down areas, access and off-street parking, sanitary waste disposal, water supply, and fuel storage.

1) An area map at a scale of not less than one inch equals five- hundred feet (1" =

500') showing:

a) Distances from buildings, roads, natural features, power lines, or other possible obstructions within two thousand (2,000) feet of the ends of runways shall be accurately plotted.

b) Properties within one thousand (1,000) feet of the airstrip boundary shall be plotted, owners identified, and the location and height of each building demarcated.

(xi) Any alteration, expansion of any airstrip shall require a Site Plan Review and/or a Special Use Permit.

Section 11.04 Recreational Vehicles

(a) Recreational vehicles may be parked in both Residential (R-1) and Agricultural-Residential (A-R) Districts behind the setback of the face of the house and may not be closer than ten(10) feet from lot lines.

Section 11.05 Campgrounds

(a) Location

(i) A campground shall be located and maintained only in an Agricultural-Residential (A-R) District upon issuance of a Special Use Permit and in accordance with the standards set forth in this Zoning Law.

(b) Existing campgrounds

(i) All existing campgrounds must comply with this section whenever any addition, expansion or alteration (changes affecting lot size or layout, streets, and utilities) of the use or operation proposed.

(ii) Any sale or transfer of ownership of the campgrounds shall require a Site Plan Review by the Planning Board.

(c) Standards and Requirements for the Construction of Campgrounds

(i) The Planning Board shall determine that the proposed use is designed and arranged in accordance with the following standards:

1) Site—The campground shall be located on a well-drained site to ensure proper drainage with a minimum size of fifteen (15) acres.

2) Lots—Each campground shall be divided into lots. The total number of lots shall not exceed twelve (12) per gross acre. Each lot shall have a total area of not less than two thousand five hundred (2500) square feet with a minimum width of forty (40) feet. Only one recreational vehicle or tent shall be permitted to occupy any one lot. Each lot shall have a parking base for the recreational vehicle of sufficient size and durability to provide for the placement and removal of a recreational vehicle.

3) Buffer zone—A buffer zone of twenty five (25) feet shall be required between any side and rear property lines and one hundred (100) feet from the front right-of-way subject to the Planning Board approval.

4) Accessibility—Each campground shall be easily accessible from an existing public road with entrances and exits designed and located for safe and convenient movement in and out of the campground to minimize conflicts with the movement of traffic on a public road. All entrances and exits shall be at right angles to existing

public roads and of sufficient width to facilitate the turning movements of recreational vehicles.

5) Street System—Each campground shall have improved streets to provide convenient access to all lots and other important facilities within the campground. The street system shall be so designed to permit safe and convenient vehicular circulation within the campground. All streets shall have a minimum width of twelve (12) feet for one-way traffic or twenty four (24) feet for two-way traffic. Entrance into the campground shall be not less than thirty (30) feet wide for a lineal distance of two hundred (200) feet. No parking shall be allowed on such streets except in the case of an emergency.

6) Utilities—All campground utilities shall be underground and shall comply with the regulations of the Genesee County Department of Health, New York State Uniform Fire Prevention and Building Code and the New York State Department of Environmental Conservation.

7) Recreational Space—Campgrounds shall provide a common open area suitable for recreation and play purposes. The open area shall be not less than ten (10) percent of the gross land area, not to include buffer zone and lot sites.

8) Improvements—Lighting, landscaping and buffer areas may be required by the Planning Board and shall be in keeping with surrounding development, the unique features of the site and the health and safety of occupants of the campground.

9) Management—Every campground shall be managed from an office located on the premises. The management shall maintain the campground in a clean and attractive manner, and take reasonable steps to protect the health, safety and comfort of all persons accommodated therein. It shall be the responsibility of the management to maintain relative quiet during the hours of 10:00 p.m. and 7:00 a.m. Garbage and rubbish shall be collected and disposed of as often may be necessary to ensure sanitary conditions.

10) Fence—The Planning Board is authorized to require that all or some of the campground be fenced if circumstances warrant. No camp structure, except fences, gates and permitted signs shall be located within fifty (50) feet of any street or property line.

11) Accessory uses—Management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundries, off street parking, loading areas, and other uses and structures customarily incidental to the operation of camping grounds are permitted as accessory uses to the campground subject to a Site Plan Review by the Planning Board. Parking and loading on public streets is prohibited.

Section 11.06 Kennels

(a) Kennels may be permitted by Special Use Permit in the Agricultural Residential (A-R) District.
(b) The minimum lot area for such uses shall be five (5) acres.
(c) Shelters for animals within kennels shall not be closer than one hundred (100) feet to any lot line and two hundred (200) feet from any dwelling on adjacent property.

(d) No outdoor area enclosed by fences for the use of animals shall be permitted within the front yard. Fenced areas shall be setback not less than fifty (50) feet from any side or rear property line.
(e) All animals must be confined to an enclosed structure after 9:00 p.m. to7:00 a.m.
(f) The Planning Board may require a sanitation and/or sewage disposal plan to be submitted. The Board may also require such a plan to be designed by a licensed professional engineer.

Section 11.07 Boarding Houses

(a) Boarding houses may be permitted as special uses in the Agricultural-Residential (A-R) District upon the issuance of a Special Use Permit.
(b) Off-street parking shall be provided as follows: At least two (2) spaces for the family residing on the premises plus not less than one (1) additional space for each roomer.

Section 11.08 Wind Energy Facilities

(a) An Industrial Wind Turbine may be permitted in an Agricultural-Residential (A-R) and Industrial (I-I) District only upon the approval of a Special Use Permit and Site Plan review by the Planning Board.
(b) A Wind Energy Conversion System may be permitted only on the approval of a Special Use Permit and site plan review by the Planning Board.
(c) In addition to the requirements for Special Use Permits outlined in Article III of this Zoning Law, the site plan shall also show:
(i) Location of tower on-site and tower height, including blades.
(ii) Aboveground utility lines within a radius equal to the proposed tower height, including blades.
(iii) A New York State licensed engineer's drawings are required showing dimensions and structural components of the tower construction including the base and footings, and any accessory buildings.
(iv) Design data indicating the basis of design, including manufacturer's certification that the tower design is sufficient to withstand wind load requirements for structures.
(v) The location of property lines and permanent easements.
(vi) The location of proposed wind energy facility, together with guy wires and guy anchors, if applicable, and elevation.
(vii) A side elevation sketch of the wind turbine tower showing the rotor blades.
(viii) The location of all structures on the property, trees exceeding four (4") inches in diameter measured at a height of four (4) feet off the ground, and other significant and/or unusual features on the property and any adjacent landowners within 500 feet of the property.
(ix) The names of adjacent landowners.
(x) The location, nature and extent of any proposed fencing, landscaping and/or screening.
(xi) The location and size of structures above thirty-five (35) feet located with a five-hundred (500) foot radius of the proposed wind turbine. For the purpose of this

requirement, electrical transmission lines, antennas and open towers (other than turbine) are not considered structures.

(xii) To demonstrate compliance with the setback requirements, circles shall be drawn around each turbine equal to one and one-half(1 ½) times the tower height with blades, the five-hundred(500) foot perimeter, and if an Industrial Wind Turbine, the one-thousand (1000) foot perimeter if within the property lines.

(xiii) The site plan shall also include or there shall be a separately submitted confirmation in writing by the installer or utility supplier of the proposed wind turbine that all transmission lines from the meter of the home, business or farm structure, including approved easements, if required, are acceptable. Underground transmission lines must be shown on the site plan, and a Wind Energy Conversion System, be at least four (4) feet below ground level unless otherwise requested by the Planning Board.

(xiv) In the case of an industrial turbine or complex, the site plan shall include a completed visual environmental assessment form (visual EAF) and a landscaping plan addressing other standards listed with this section with particular attention to visibility from key viewpoints within and outside of the municipality as identified in the visual EAF. The Planning Board many require submittal of a more detailed visual analysis based on the results of the visual EAF.

(xv) In addition to other plan requirements, an application for a wind energy facility shall include all information prepared by the manufacturer of the tower for the application for which a Special Use Permit is being sought, including but not limited to the following:

1) The make and model of the tower erected.
2) The manufacturer's design data for installation instructions and construction plans.
3) The applicant's proposed tower maintenance and inspection procedures.
4) The applicant's maintenance and inspection records system.
5) Anti-climb devices for the tower and guy wires.
6) The distribution to the structure or residence, power specifications and grounding.

(xvi) Except as provided for below, no more than one Wind Energy Conversion System shall be allowed and only on a legally approved lot within the town. No existing lot many be subdivided solely for the purpose of circumventing this provision.

(xvii) Agricultural uses outside of a NYS Certified Agricultural District that are seven (7) acres and generate at least $10,000 in gross sales may apply for two Wind Energy Conversion Systems, provided the farm operator submits statistical evidence supporting the need for additional power generation to the satisfaction of the Planning Board. All other regulations of this section must be observed. Agricultural use in a NYS Certified Agricultural District may apply for multiple Wind Energy Conversion Systems so long as 51% or more of the annual power generated by the system is consumed by on-site agricultural or agricultural accessory uses

(xviii) The maximum height for Wind energy facilities permitted under this section shall be as follows:

1) A Wind Energy Conversion System shall not exceed a total of one- hundred and

fifty (150) feet as measured from ground level to the tip of the blade in the up (vertical) position and otherwise complies with all other regulations in this section. Roof mounted Wind Energy Conversion Systems extending to a height of less than or equal to thirteen (13) feet above the roof line are permissible.

2) The height of an Industrial Wind Turbine as measured with a blade tip up shall be a maximum of two- hundred and twenty –five (225) feet as measured from ground level to the tip of a blade in the up (vertical) position and otherwise complies with all other regulations in this section.

(xix) Setbacks and locations excluding roof mounted Wind Energy Conversion Systems:

1) A Wind Energy Conversion System shall be located in rear yards of residences and to the rear of business or farm structures.

2) The setback from the front property line and the minimum distance between any wind turbine tower and structure shall be calculated at one and one-half (1 ½) times the height of the tower including the rotor blades. The side and rear property line setback shall be calculated at one and one-tenth (1 1/10) times the height of the tower including the rotor blades. This requirement may be waived by the Planning Board if it deems appropriate to minimize impacts to normal farming operations by locating structures along field edges.

3) For a complex, the distance between turbines must be at least five- hundred (500) feet.

4) To minimize segmenting of land plots and fields, all turbines in rows or randomly placed shall be placed at one and one-half (1½) times the total tower height (vertical distance from ground level to the tip of a wind turbine blade when the tip is at its highest point) from all lot lines, providing all setback restrictions in the Zoning Law are adhered to on all sides of the lot lines.

(d) If the Wind Energy Conversion System is to be interconnected to an electric utility distribution system, the applicant shall provide evidence of approval of the proposed interconnect by the local utility company.

(e) A Wind Energy Conversion System and Industrial Wind Turbine may not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the lighting must comply with the FAA and Town Planning Board minimum requirements and whenever possible, be at the lowest intensity allowed, and avoid the use of strobe or other intermittent white lights. If more than one lighting alternative is available, the alternative that causes the least visual disturbance must be used.

(f) The owner of a Wind Energy Conversion System will be required by the Planning Board to provide a performance bond, a completion bond, or other financial assurance that guarantees the performance of the restoration of the land developed for the Wind Energy Conversion System.

Section 11.09 Stables or Riding Academies-Applicable only to those uses not governed by

Ag & Market

(a) Stables for the commercial boarding of horses or riding academies may be permitted in the Agricultural Residential (A-R) District upon the approval of a Special Use Permit by the Planning Board.
(b) The land devoted to this use shall not be less than ten (10) contiguous acres.
(c) One principle single family dwelling may be located on the land devoted to this use provided that it complies with the requirements for this Local Law. The land area on which the principle single family dwelling is located shall not be considered as part of the land "devoted to this use" as set forth in Paragraph B above.
(d) The number of horses that may be boarded and/or trained at such property shall not exceed eight (8) horses for the first ten (10) acres of land devoted to this use, plus one horse for each additional acre.
(e) A waste management plan must be submitted. No manure shall be stored or permitted to accumulate within one hundred (100) feet from any boundary line or within twenty five (25) feet from a dwelling on a same lot, or within one hundred twenty five (125) feet from a dwelling on any adjacent property.
(f) Exercise tracks and riding rings shall be at least one hundred (100) feet from any property line and/or right-of-way (ROW).
(g) Suitable and adequate off-street parking shall be provided in accordance with the requirements established by the Planning Board. No parking shall be permitted within fifty (50) feet of any property lines.
(h) Exterior lighting shall be permitted only to the extent necessary to prevent injury to the public and shall be so installed and arranged as to reflect light away from the adjoining street and prevent any nuisance to adjoining property.
(i) If exterior loudspeakers are installed or used on the premises, they shall minimize potential nuisances to adjacent properties. Operations of lighting and loud speakers are not allowed after 9:00 p.m. and before 7:00 a.m.

Section 11.10 Multiple Family Developments

(a) Multiple Family Developments shall be permitted in A-R and R-1 Districts subject to the issuance of a Special Permit.
(b) In addition to the general requirements for a Special Use Permit, Multiple Family Developments shall have:
  (i) Minimum lot size of three (3) acres
  (ii) An area six (6) feet in width around each building shall be kept clear of all vegetation, except foundation plantings less than three (3) feet in height.
  (iii) The driveway or driveways shall have direct access to a public street or road.
  (iv) Each dwelling unit shall have a storage or areas deemed adequate by the Planning Board.
  (v) At least ten percent (10%) of the lot area, exclusive of areas required for setback, buffer strips and parking areas, shall be devoted to common recreational space and shall be shrubbed and equipped as the Planning Board shall determine.
  (vi) All utilities shall be underground and shall be inspected and approved by the

appropriate authorities.

Section 11.11 Planned Residential Development PRD District

(a) Purpose

(i) It is the intent of this planned residential development section 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 that incorporate a variety of residential types and contain both individual building sites and common land areas, which are planned and developed as a unit, may be developed within the Town.

(ii) Such a planned development is to be designed and organized to be capable of satisfactory use and operation as a separate entity without needing the participation of other building sites or other common land areas in order to function as a neighborhood. This section specifically encourages 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.

(iii) This section recognizes that while the standard zoning function (use and bulk) and the subdivision function (platting and design) are appropriate for the regulation of land use in areas or neighborhoods that are already substantially developed, these controls represent a type of preregulation, regulatory rigidity and uniformity which may be inimical to the techniques of land development contained in the planned residential development concept. Further, this section recognizes that a rigid set of space requirements along with bulk and use specifications would frustrate the application of this concept. Thus, where PRD techniques are deemed appropriate through the rezoning of land to a planned residential development district by the Town Board, the use and dimensional specifications established elsewhere in this chapter are herein replaced by an approval process in which an approved plan becomes the basis for continuing land use controls.

(b) Objectives. In order to carry out the intent of this section, a PRD shall achieve the following objectives:

(i) A maximum choice in the types of environment, occupancy tenure (e.g., cooperatives, individual ownership, condominium, leasing), types of housing, lot sizes and community facilities available to existing and potential Town residents at all economic levels.

(ii) More usable open space and recreation areas.

(iii) The construction of attractive new residential housing facilities for all income groups which will allow the existing business district to continue its role as the Town focal point.

(iv) The preservation of trees, outstanding natural topography and geologic features and the prevention of soil erosion.

(v) A creative use of land and related physical development which allows an orderly transition of land from rural to urban uses.

(vi) An efficient use of land resulting in smaller networks of utilities and streets and

thereby lower housing costs.

(vii) A development pattern in harmony with the objectives of comprehensive planning.

(viii) A more desirable environment than would be possible through the strict application of other sections of this chapter.

(ix) Land development that is made to fit the existing land rather than the converse.

(x) The incorporation of aesthetic qualities into the design process that will make the finished PRD project physically appealing to both the residents who will live there and the community in general.

(xi) A lessening of congestion in the streets.

(xii) The lessening of danger from fire, flood and other problems created by congestion.

(xiii) The promotion of the health and general welfare of the Town.

(xiv) Providing the adequate light and air and the prevention of the crowding of land resulting from undue concentration of population.

(xv) The facilitating of adequate provision of transportation, water, sewerage, schools, parks and other public requirements.

(c) General requirements.

(i) Minimum area. Under normal circumstances, the minimum area required to qualify for a planned residential development district shall be twenty-five (25) contiguous acres of land. Where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this section, the Planning Board may consider projects with less acreage.

(ii) 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 individuals or corporations. An application must be filed by the owner or jointly by owners of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners.

(iii) Location of PRD District. The PRD District may be applicable to any area of the Town where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this section. Such designation of any PRD District shall be by amendment to this chapter and shall be made in accordance with a comprehensive plan.

(iv) Permitted uses. All uses within an area designated as a PRD District are determined by the provisions of this Article 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 section. However, at least 35% of the total number of dwelling units within any PRD will be in single-family, detached structures. Approval of such single-family residential use requirement shall be optional with the Planning Board and the Town Board and may or may not be required in keeping with the best interests of the Town and the area under development.

2) Accessory commercial, service and other nonresidential uses.

a) An application requesting commercial, service and other nonresidential uses will

generally be discouraged because of conflict with the objectives of this chapter. However, consideration will be given to very limited commercial, service and other nonresidential uses where they are scaled to a size and type for the sole use and benefit of the residents of the planned residential development and where their utilization by others is discouraged by appropriate placement within the planned residential development and by the size and type of services offered.

b) If any accessory commercial, service or other nonresidential uses are requested by the developer, then permission for the development of such facilities within the PRD shall be pursuant to the provisions of Article VII of this chapter and shall be a special use pursuant to the provisions of those sections.

3) Customary accessory or associated uses, such as private garages, storage spaces, recreational and community activities, churches and schools, shall also be permitted (or required) as appropriate to the PRD.

(v) Intensity of land uses. Because land is used more efficiently in a PRD, 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 ratings or dwelling unit densities shall be completely documented, including all facts, opinions and judgments justifying the selection of the rating or density.

(vi) Common property in the PRD. "Common property in a PRD" 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 in private ownership, satisfactory arrangements must 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.

(vii) General guidelines for design. The following items are intended to be general guidelines for the developer to follow when planning his development layout and design. Although they represent a pattern of customary requirements and restrictions, they are meant to be applied to a specific proposal open-mindedly and objectively. Specific circumstances may warrant slight changes in application if the developer can suggest alternatives which, in the opinion of the Town Board, Town Planning Board and Town Engineer, are more in keeping with the objectives of this chapter as previously listed.

1) Acceptable uses.

a) Single-family homes.

b) Low-rise apartment houses, duplexes, fourplexes and townhouses.

c) Nursing homes, proprietary-care homes, day-care nurseries, med-dental clinics and offices.

d) Normal accessory uses designed as an integral part of the development and scaled for the exclusive use of the residents of the development.

e) Churches.

f) Parks and playgrounds.

g) Schools.

2) Generally unacceptable uses.

a) Manufactured home parks.

b) High-rise structures (greater than three stories).

c) Commercial establishments not constructed for the exclusive use of the PRD residents, including retail outlets, service outlets and gas stations.

d) Industrial establishments, including any facility engaged in the manufacture of goods for wholesale or retail distribution.

3) Dimensional considerations.

a) Fifty (50) feet minimum shall generally be required between any building and the street line of any dedicated street peripheral to the site.

b) Twenty-five (25) feet minimum shall generally be required between any building and the street line of any interior project road. In the case of nondedicated streets and roads, this setback shall be measured from the limits of the paved area. However, the effect of this distance on the location of sidewalks and driveway parking space shall be considered.

c) Accessory buildings generally shall not be placed in front yard areas.

d) Buildings generally shall not cover more than thirty-five percent (35%) of the total project acreage.

e) Fifty (50) feet shall generally be required between any building and any exterior lot line.

f) Seventy-five (75) feet of open land, free from structures and paved areas (except for pedestrian walkways) and available for public use, shall generally be required adjacent to any creek or stream running either through or adjacent to the property under question. The developer is urged to enhance the aesthetic qualities of natural assets rather than ignore or destroy them.

4) Off-street parking. The following specific items shall generally apply to off-street parking facilities:

a) A parking space shall be nine (9) feet by twenty (20) feet in area plus necessary driveways and turning areas.

b) No parking areas shall be located within any required front setback from any peripheral dedicated street or road, nor shall it be located closer than ten (10) feet from any adjoining property line within side or rear yards.

c) All parking spaces shall be surfaced with asphalt and shall be so graded and drained as to dispose of all surface water accumulation within the area.

d) Parking shall be so distributed as to service the individual unit or units. Parking lots should be kept small and, in other ways, broken up into smaller units through provision of islands and plantings.

e) There shall be a minimum of one parking space for each one-bedroom or studio apartment.

f) There shall be a minimum of one and one-half (11/2) parking spaces for each two-bedroom dwelling unit.

g) There shall be a minimum of one and one-half (11/2) parking spaces for each three-bedroom dwelling unit.

5) Recreational areas. There shall generally be required a minimum of twenty-five percent (25%) of the total project area to be reserved as accessible open land for recreational purposes; included can be any formal recreational facilities, picnic areas and open yard areas.

6) Landscaping. When the project includes land which contains few trees and shrubs that can be made part of the finished landscape, the developer shall furnish additional plantings to enhance the physical appearance of his finished project.

(d) Application procedure; zoning approval process. Whenever any planned residential development is proposed, before any permit for the erection of a permanent building in such planned residential development shall be granted and before any subdivision plat of any part thereof may be filed in the office of the Genesee County Clerk, the developer or his authorized agent shall apply for and secure approval of such planned residential development in accordance with the following procedures:

(i) Application for sketch plan approval.

1) In order to allow the Planning Board and the developer to reach an understanding on basic design requirements prior to detailed design investment, the developer shall submit a sketch plan of his proposal to the Planning Board. The sketch plan shall be approximately to scale, though it need not be to the precision of a finished engineering drawing; and it shall clearly show the following information:

a) The location of the various uses and their areas in acres.

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 groups, indicating, for each such grouping, its general extent, size and composition in terms of total number of dwelling units and approximate percentage allocation by dwelling unit type (i.e., single-family detached, duplex, townhouses, garden apartments, high-rise, 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) If grades exceed three percent (3%) or portions of the site have a moderate to high susceptibility to erosion or a moderate to high susceptibility to flooding and ponding, a topographic map showing contour intervals of not more than five (5)feet of elevation shall be provided along with an overlay outlining the above susceptible soil areas, if any.

g) Principal ties to the community at large with respect to transportation, water supply and sewage disposal.

h) 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.

i) A location map showing uses and ownership of abutting lands.

2) In addition, the following documentation shall accompany the sketch plan:

a) Evidence of how the developer's particular mix of residential uses meets existing

community demands. 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 Community Comprehensive Master Plan.

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 competence to carry out the plan and his awareness of the scope of such a project, both physical and financial.

(ii) Informational public hearing. After the developer has submitted his sketch plan and proposal to the Planning Board and within fifteen(15) days thereafter, the Planning Board shall cause a notice of a public hearing to be published once in the official paper of the Town of Byron concerning an informational public hearing to be held at a specified time and place before the Planning Board of the Town of Byron for purposes of disseminating information concerning the proposal to the general public and for purposes of discussions of the proposal with the general public. Thereafter, the Planning Board shall make its recommendations to the Town Board as provided for in Subsection D(3)(b) below.

(iii) Planning Board review process, report and recommendation. The Planning Board shall review the sketch plan and its related documents and shall render either a favorable or unfavorable report to the Town Board and the applicant. The Planning Board may call upon the County Planning Department and any other public or private consultants that they feel are necessary to provide a sound review of the proposal. Any expense incurred by the Planning Board for any such consultations shall be reimbursed by the applicant and payment thereof shall be a condition precedent to any final action by the Planning Board.

1) A favorable report shall include a recommendation to the Town Board that a public hearing be held for the purpose of considering PRD districting. It shall be based on the following findings, which shall be included as part of the report:

a) A rezoning of the subject site to PRD designation would be in accordance with the Community Comprehensive Master Plan.

b) The proposal meets the intent and objectives of planned residential development as expressed in Subsection B of this section.

c) The proposal meets all the general requirements of Subsection C of this section.

d) 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.

e) There are adequate services and utilities available or proposed to be made available in the construction of the development.

2) An unfavorable report shall state clearly the reasons therefore and, if appropriate,

point out to the applicant what might be necessary in order to receive a favorable report. The applicant may, within ten (10) days after receiving an unfavorable report, file an application for PRD districting with the Town Clerk. The Town Board may then determine on its own initiative whether or not it wishes to call a public hearing.

3) The Chairman of the Planning Board shall certify when all of the necessary application material has been presented; and the Planning Board shall submit its report within sixty(60)days of such certification.

(iv) Application to Town Board for PRD districting.

1) Upon receipt of a favorable report from the Planning Board or upon its own determination subsequent to an appeal from an unfavorable report, the Town Board shall set a date for and conduct a public hearing for the purpose of considering PRD districting for the applicant's plan in accordance with the procedures established under §§ 278 and 279 of the Town Law or other applicable law, said public hearing to be conducted within sixty-two (62) days of the receipt of the favorable report or the decision on appeal from an unfavorable report.

2) The Town Board shall refer the application to the County Planning Department for its analysis and recommendations, and the Town Board may also refer the application to the Town Engineer and Town Attorney for their review. The Town Board shall also send notice of the public hearing on the application to County of Genesee.

a) The Town Board shall give the County Planning Department at least thirty (30) days to render its report; and within sixty-two (62) days after the public hearing, the Town Board shall render its decision on the application.

b) The Town Engineer shall submit a report to the Town Board within thirty (30) days of the referral, duly noting the feasibility and adequacy of those design elements relating to the engineering aspects of the project. 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 their report any other conditions that must be adhere to before consideration of acceptance on their part.

(v) Grant of PRD districting; additional conditions and requirements. If the Town Board grants the PRD 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 Subsection C(5).

(e) Site plan approval process.

(i) Application for preliminary site plan approval shall be to the Planning Board and

shall be accompanied by the following information prepared by a licensed engineer, architect and/or landscape architect:

1) An area map showing the applicant's entire holding, that portion of the applicant's property under consideration and all properties, subdivisions, streets and easements within five hundred (500) feet of the applicant's property.

2) A topographic map showing contour intervals of not more than five(5) feet of elevation.

3) A preliminary site plan, including the following information:

a) Title of the drawing, including the name and address of the applicant.

b) North point, scale and date.

c) Boundaries of the property plotted to scale.

d) Existing watercourses.

e) A site plan showing location, proposed use and height of all buildings; location of all parking and truck loading areas, with access and egress drives thereto; location and proposed development of all open spaces, including parks, playgrounds and open reservations; location of outdoor storage, if any; location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences; description of method of sewage disposal (all methods of sewage disposal must conform to all State and County requirements) and location of such facilities; location and size of all signs; location and proposed development of buffer areas; location and design of lighting facilities; and the amount of building area proposed for nonresidential uses, if any.

4) A tracing overlay showing all soil areas and their classifications and those areas, if any, with moderate to high susceptibility to flooding and moderate to high susceptibility to erosion. For areas with potential erosion problems, the overlay shall also include an outline and description of existing vegetation.

5) Storm drainage calculations justifying sizing of proposed drainage system and capabilities of receiving stream or piping system.

(ii) Factors for consideration.

1) The Planning Board's review of a preliminary site plan shall include but is not limited to the following considerations:

a) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures and traffic controls.

b) Adequacy and arrangement of pedestrian traffic access and circulation, including separation of pedestrian from vehicular traffic, walkway structures, control of intersections with vehicular traffic and pedestrian convenience.

c) Location, arrangement, appearance and sufficiency of off-street parking and loading.

d) Location, arrangement, size and design of buildings, lighting and signs.

e) Relationship of the various uses to one another and their scale.

f) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or a noise-deterring buffer between adjacent uses and adjoining lands.

g) In the case of apartment houses or multiple dwellings, the adequacy of usable

open space for playgrounds and informal recreation.

h) Adequacy of stormwater and sanitary waste disposal facilities.

i) Adequacy of structures, roadways and landscaping in areas with moderate to high susceptibility to flooding and ponding and/or erosion.

j) Protection of adjacent properties against noise, glare, unsightliness or other objectionable features.

k) The degree to which the developer proposes to leave untouched the natural beauty of the area.

l) The overall physical attractiveness of the design.

m) Conformance with other specific charges of the Town Board which may have been stated in this chapter.

2) In its review, the Planning Board may consult with the Town Engineer and other Town and County officials, as well as with representatives of federal and state agencies, including the Soil Conservation Service and the New York State Department of Environmental Conservation. The Planning Board may require that exterior design of all structures be made by or under the direction of a registered architect whose seal shall be affixed to the plans. The Planning Board may also require such additional provisions and conditions as may appear necessary for the public health, safety and general welfare.

a) Action on preliminary site plan application.

i) Within ninety (90) days of the receipt of the application for preliminary site plan approval, the Planning Board shall act on it. If no decision is made within said ninety-day period, the preliminary site plan shall be considered approved. The Planning Board's action shall be in the form of a written statement to the applicant, stating whether or not the preliminary site plan is approved. A copy of the appropriate minutes of the Planning Board shall be a sufficient report.

ii) The Planning Board's statement may include recommendations as to desirable revisions to be incorporated in the final site plan, conformance with which shall be considered a condition of approval. Such recommendations shall be limited, however, to siting and dimensional details within general use areas and shall not significantly alter the sketch plan as it was approved in the zoning proceedings.

iii) If the preliminary site plan is disapproved, the Planning Board's statement shall contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission of the preliminary site plan to the Planning Board after it has been revised or redesigned.

iv) No modification of existing stream channels, filling of lands with a moderate to high susceptibility to flooding, grading or removal of vegetation in areas with moderate to high susceptibility to erosion or excavation for and construction of site improvements shall begin until the developer has received preliminary site plan approval. Failure to comply shall be construed as a violation of this chapter; and, where necessary, final site plan approval may require the modification or removal of unapproved site improvements.

b) Request for changes in sketch plan. If, in the site plan development, it becomes apparent that certain elements of the sketch plan, as it has been approved by the

Town Board, are unfeasible and in need of significant modification, the applicant shall then present his solution to the Planning Board as his preliminary site plan in accordance with the above procedures. The Planning Board shall then determine whether or not the modified plan is still in keeping with the intent of this chapter. If a negative decision is reached, the Planning Board shall so notify the Town Board, stating all of the particulars of the matter and its reasons for feeling the project should be continued as modified. Preliminary site plan approval may then be given only with the consent of the Town Board.

c) Application for final detailed site plan approval.

i) After receiving approval from the Planning Board on a preliminary site plan and approval for all necessary permits and curb cuts from State and County officials, the applicant may prepare his final detailed site plan and submit it to the Planning Board for final approval, except that if more than twelve (12) months has elapsed between the time of the Planning Board's report on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review.

ii) The final detailed site plan shall conform substantially to the preliminary site plan that has received preliminary site plan approval. It should incorporate any revisions or other features that may have been recommended by the Planning Board and/or the Town Board at the preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.

iii) If no action has been made on an approved site plan within twelve (12) months the applicant must reapply.

d) Action on the final detailed site plan application. Within sixty (60) days of the receipt of the application for final site plan approval, the Planning Board shall render a decision to the applicant and so notify the Town Board. If no decision is made within the sixty-day period, the final site plan shall be considered approved.

i) Upon approving an application, the Planning Board shall endorse its approval on a copy of the final site plan and shall forward it to the Zoning Enforcement Officer, who shall then issue a building permit to the applicant if the project conforms to all other applicable requirements.

ii) Upon disapproving an application, the Planning Board shall so inform the Zoning Enforcement Officer. The Planning Board shall also notify the applicant and the Town Board in writing of its decision and its reasons for disapproval. A copy of the appropriate minutes may suffice for this notice.

e) Staging. If the applicant wishes to stage his development and he has so indicated as per Subsection D(2)[b][4], then he may submit only those stages he wishes to develop for site plan approval in accordance with his staging plan. Any plan which requires more than twenty-four (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 PRD shall the dwelling unit ratios between the several different housing types for that portion of the PRD completed and/or under construction differ from that of the

PRD as a whole by more than twenty percent (20%).

3) Other applicable regulations.

a) Regulation after initial construction and occupancy. For the purposes of regulating development and use of property after initial construction and occupancy, any changes other than use changes shall be processed as a Special Use Permit request to the Planning Board. Use changes shall also be in the form of a request for Special Use Permit, except that Town Board approval shall be required. It shall be noted, however, that properties lying in planned residential 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 primary importance

b) Site plan review. Site plan review under the provisions of this section shall suffice for Planning Board review pursuant to any site plan review required by any provision of this Law, subject to the following conditions:

i) The developer shall prepare sets of subdivision plats suitable for filing with the office of the Genesee County Clerk in addition to those drawings required above.

ii) The developer shall plat the entire development as a subdivision; however, PRD's being developed in stages may be platted and filed in the same stages.

iii) Final site plan approval under Subsection E shall constitute final plat approval under subdivision regulations; and provisions of the Town Law requiring that the plat be filed with the Genesee County Clerk within ninety (90)days of approval shall apply.

4) Financial responsibilities. No building permits shall be issued for construction within a PRD District until improvements are installed or performance bond posted as provided for in§ 277, Subdivision 9, of the Town Law relating to subdivisions. Other such requirements may also be established from time to time by the Town Board.

5) Cost of review and public hearings. The applicant shall pay the Town a sum as determined by resolution of the Town Board for the two public hearings required in the steps outlined herein for presentation and any and all reviews of its proposal by the Town Board and Planning Board, and the sum shall be paid to the Town of Byron prior to the informational hearing held by the Planning Board. Any other public hearing requested or desired shall be held only after payment by the developer to the Town of Byron to cover the cost and expenses of the Town.

Section 11.12 Adult Uses

(a) Restrictions Affecting Adult Uses

(i) Adult uses, including but not limited to, adult bookstore, adult motion-picture theater, adult mini-motion-picture theater, adult entertainment cabaret, and clubs (private or charter) shall be permitted subject to the following restrictions:

1) No such adult uses shall be permitted, operated, conducted, or located within:

a) Five-hundred (500) feet of another existing adult use

b) Five-hundred (500) feet of the boundaries of any Residential or Agricultural-Residential Zoning District

c) Two thousand (2,000) feet of a school, place of worship or playground

2) No such adult use shall be permitted, operated, conducted or located in any zoning district except an Industrial (I-1) District.

3) Such use shall meet all requirements of Local Law 2002 and in the event of any conflict of the Local Law with this Local Law, the provision of that Law shall control.

Section 11.13 Commercial Communication Towers

(a) No commercial communication tower shall hereafter be used, erected, moved, reconstructed, changed, or altered unless in conformity with these regulations. No existing structure shall be modified to serve as a commercial communication tower unless in conformity with this Town Law.

(i) Site Plan Review

1) The applicant shall be required to submit a site plan. The site plan shall show all existing and proposed structures and improvements including roads, buildings, tower(s), guy wire anchors, parking and landscaping and shall include grading plans for new facilities and roads.

(ii) Supporting Documentation

1) The Planning Board shall require that the site plan include a completed Visual Environmental Assessment Form (Visual EAF - SEQR); and documentation on the proposed intent and capacity of use as well as a justification for the height of any tower or antenna and justification for any required clearing. The applicant must provide a coverage/interference analysis and capacity analysis that location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs of the cellular system and to provide adequate portable cellular telephone coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district. The Planning Board may require submittal of a more detailed visual analysis based on the results of the Visual EAF in addressing this Subsection and Subsections J and K below.

(iii) Shared Use of Existing Towers and/or Structures

1) At all times, shared use of existing towers and/or structures (i.e., a water tower, building, etc.) shall be preferred to the construction of new commercial communication towers. An applicant shall be required to present an adequate report inventorying existing towers within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities as an alternative to a proposed new commercial communication tower.

a) An applicant proposing to share use of an existing tower and/or structure shall be required to document intent from an existing tower/structure owner to allow shared use.

b) The Planning Board may consider a new commercial communication tower where the applicant demonstrates that shared usage of an existing tower/structure is impractical. The applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers/structures as well as documentation of the physical and/or financial reasons why shared usage is not

practical. Written requests and responses for shared use shall be provided.

(iv) Shared Usage of Site with New Tower

(v) Where shared usage of an existing tower/structure is found to be impractical, the applicant shall investigate shared usage of an existing tower/structure site for its ability to accommodate a new tower and accessory uses. Documentation and conditions shall be in accordance with Subsection C, Paragraphs 1 and 2 above. Any new commercial communication tower approved for an existing tower/structure site shall be subject to the standards of Subsections (F) through (N) below.

(vi) New Tower at a New Location

1) The Planning Board may consider a new commercial communication tower on a site not previously developed with an existing tower/structure when the applicant demonstrates that shared usage of an existing tower site is impractical, and submits a report as described in Subsection C(2) above.

(vii) Future Shared Usage of New Towers

1) The applicant must examine the feasibility of designing a proposed commercial communication tower to accommodate future demand for commercial broadcasting and reception facilities. The scope of this analysis shall be determined by the Planning Board. This requirement may be waived, provided that the applicant demonstrate that provisions of future shared usage of the facility is not feasible and an unnecessary burden, based upon:

a) The number of Federal Communications Commission (FCC) licenses foreseeably available for the area;

b) The kind of tower site and structure proposed;

c) The number of existing and potential licenses without tower spaces;

d) Available spaces on existing and approved towers; and

e) Potential adverse visual impact by a tower designed for shared usage.

(viii) Setbacks for New Towers

1) All proposed commercial communication towers and accessory structures shall be set back from abutting residential parcels, public property or street lines, a distance sufficient to contain on-site substantially all ice-fall or debris from tower failure and preserve the privacy of adjoining residential properties.

a) All commercial communication tower bases must be located at a minimum setback from any property line at a distance at least equal to the tower height, or the distance between the tower base and guy wire anchors, or the minimum setback of the underlying Zoning District, or a minimum setback at a distance which shall be established in the sole discretion of the Planning Board based on the unique characteristics of the site, whichever of the foregoing is greater. The minimum setback requirement of this paragraph may be increased at the discretion of the Planning Board, or it may be decreased in those instances when the applicant has submitted plans for a tower designed in such a manner as to collapse within a smaller area. Such tower design and collapse zone must be acceptable to the Town Engineer.

b) Accessory structures must comply with the minimum setback requirements in the underlying district.

(ix) Visual Impact Assessment

1) The Planning Board shall require the applicant to undertake a visual impact assessment of any proposed new towers or any proposed modifications of an existing tower that will increase the height of the existing tower. Construction of a new commercial communication tower or modification of an existing tower shall be subject to the relevant guidelines and criteria below that are determined by the Planning Board at the pre-submission conference to be appropriate.

a) Assessment of "before and after" views from key viewpoints both inside and outside of the Town, including State Highways and other major roads, from State and local parks, other public lands; from any privately-owned preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers.

b) Assessment of alternative tower designs and color schemes, as described in Subsection I below.

c) Assessment of visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets.

(x) New Tower Design

1) Alternate designs shall be considered for new towers, including lattice and single pole structures. Plans should show that the owner of the commercial communication tower has agreed to permit other persons to attach other communication apparatus which do not interfere with the primary purposes of the commercial communication tower; provided that such other persons agree to negotiate a reasonable compensation to the owner from such liability as may result from such attachment. The design of a proposed new tower shall comply with the following:

a) Unless specifically required by other regulations, all towers shall have a neutral, earth tone, sky tone, or similar finish that will minimize the degree of visual impact that the new tower may have.

b) Any new tower shall be designed and constructed to have the minimum height and carrying capacity needed to provide future shared usage (co-locating of a minimum of two additional antennae), but artificial lighting of any kind shall be prohibited, unless required by Federal Aviation Administration (FAA), the Town of Byron or other recognized safety guidelines.

c) The Planning Board may request a review of the application by a qualified structural engineer for evaluation of need for and design of any new tower. The costs associated for such review shall be borne by the applicant.

d) Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

e) No portion of a tower may be used for signs or advertising purposes, including company name, banners, streamers, etc.

f) The applicant shall provide documentation to the Town that certifies the operation of the proposed commercial communication tower facility will not interfere with usual and customary transmission or reception of radio, television or other communication equipment.

g) Space on communication towers shall be made available for public safety purposes (i.e., Genesee County Public Safety Radio System) at no cost to public

safety agencies.

(xi) Existing Vegetation

1) Existing on-site vegetation shall be preserved to the maximum extent possible and no cutting of trees exceeding four (4) inches in diameter (measured at a height of four (4) feet off the ground) shall take place prior to approval of the Special Use Permit. Clear cutting of all trees in a single contiguous area exceeding twenty thousand (20,000) square feet shall be prohibited.

(xii) Screening

1) Deciduous or evergreen tree plantings may be required to screen portions of the tower and accessory structures from nearby residential property as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required. For all commercial communication towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least ten (10) feet in height within two (2) years of planting shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm.

(xiii) Access

1) Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize grounds disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten (10) feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

(xiv) Parking

1) Parking shall be provided in accordance with Article X, Section 1000, Off-Street Parking. No parking space shall be located in any required yard.

(xv) Fencing

1) Sites of proposed new commercial communication towers and sites where modifications to existing towers are proposed shall be adequately enclosed by a fence eight (8) foot in height from finished grade, unless the applicant demonstrates to the Planning Board that such measures are unnecessary to ensure the security of the facility. Such security fencing shall surround the tower base as well as each guy anchor.

(xvi) Maintenance and/or Performance Bond

1) Prior to approval of any application, the Planning Board, in its sole discretion, may require the applicant and/or owner to post and file with the Town Clerk a maintenance and/or performance bond or other form of security acceptable to the Town Attorney, in an amount sufficient to cover the installation, maintenance and/or construction of said tower during its lifetime and provide for its removal. The amount required shall be determined in the sole discretion of the Planning Board, based upon the unique characteristics of the tower and site. In furtherance of the foregoing, the applicant and/or owner shall cooperate with the Planning Board in supplying all

necessary construction and maintenance data to the Board prior to approval of any application to accomplish the foregoing.

(xvii) Removal of Obsolete/ Unused Facilities

1) Approval of a new commercial communication tower facility shall be conditioned upon the applicant's agreement to remove such facility once it is no longer used. Removal of such obsolete and/or unused commercial communication towers facilities shall take place within twelve (12) months of cessation of use. The applicant shall submit an executed removal agreement, letter of credit or other acceptable security with their application to ensure compliance with this requirement acceptable to the Town Attorney.

Section 11.14 Outdoor Wood Boilers

(a) Purpose.

(i) It is generally recognized that the types of fuel used, and the scale and duration of burning by outdoor wood boilers, can create noxious and hazardous smoke, soot, fumes, odors and air pollution, which can be detrimental to citizens' health, and can deprive neighboring residents of the enjoyment of their property or premises. It is the intention of the Town Board of the Town of Byron to establish and impose restrictions upon the construction and operation of outdoor wood boilers within certain areas of the Town for the purpose of securing and promoting the public health, comfort, convenience, safety and welfare of the Town and its inhabitants. All outdoor wood boilers shall meet the requirements of the New York State Department of Environmental Conservation (NYSDEC) Title 6 NYCRR Part 247

(b) Construction and operation prohibited.

(i) The installation, construction and operation of outdoor wood boilers or outdoor furnaces or stoves designed to provide heat to a dwelling or business ("devises") are prohibited in all zoning districts except such devises are permitted in Agricultural (A) Agricultural-Residential (A-R) and Industrial (I-1) districts.

(c) Nonconforming uses.

(i) Such devices existing prior to December 10,2008 shall be permitted to operate subject to the provisions of B, C, E and F hereof, 6 NYCRR Part 247, and any other State or Federal rule, regulation or law.

(ii) Any outdoor wood boilers pre-existing within the Town of Byron at the time this Local Law becomes effective must be installed and operated in full compliance with its manufacturer's recommendations. If any such devises are not in compliance with such recommendations the owner or operator thereof shall bring the said devise into full compliance within thirty (30) days of the effective date hereof. After said thirty (30) days any such devise not in compliance shall lose its status as a pre-existing non-conforming use, and a court of competent jurisdiction may order its disassembly and removal in a proceeding brought by the Byron Zoning Enforcement Officer against the owner or owners of the premises on which such devise is located.

(iii) Any such pre-existing outdoor wood boilers must be installed no closer than fifteen (15) feet from any of the property lines of the premises on which it is located,

and no closer than three hundred (300) feet from any residence located on any adjacent property in the same neighborhood. Also the exhaust or smoke stack on any such pre-existing devises must extend to a height at least five (5) feet higher than the highest point on the roof line of any residence located on any [adjacent] property within three hundred (300) feet of such devise location and a minimum of a minimum of eighteen(18) feet above ground level.

(d) Restrictions for all wood boilers.

(i) No person shall cause or allow emissions of air containments from an outdoor wood boiler to the outdoor atmosphere of a quantity, characteristic or duration which is injurious to human, plant or animal life or to property, or which unreasonably interferes with the comfortable enjoyment of life or property. This prohibition , applies, but is not limited to, the following:

1) Activating smoke detectors in neighboring structures;
2) Impairing visibility on a public highway; or
3) Causing a visible plume emanating from an outdoor wood boiler and contacting a building on an adjacent property.

The prohibition further applies to any particulate, fume, gas, mist, odor, smoke, vapor, toxic or deleterious emission, either alone or in combination with others, emitted from an outdoor wood boiler and that results in the conditions and circumstances listed in this subdivision notwithstanding the existence of specific air quality standards or emission limits.

(ii) No person shall operate an outdoor wood boiler in such a manner as to create a smoke plume with an opacity of twenty percent (20%) or greater six (6) minute mean as determined using EPA Reference Method 9 (or equivalent)(seeTable1 Section 200.9 of NYS DEC Title 6 NYCRR).

(iii) A person who operated an outdoor wood boiler may only burn the following fuels in such outdoor wood boiler:

1) seasoned clean wood;
2) wood pellets made from clean wood;
3) heating oil in compliance with Subpart 225-1 of Title 6 NYCRR, liquid propane gas or natural gas may be used as starter fuels for dual fuel-fired outdoor wood boilers;
4) non-glossy, non-colored papers, including newspaper, may be used only to start an outdoor wood boiler; and
5) other fuels approved by the department per the certification requirements of NYS DEC Title 6 NYCRR Part 247

(iv) Existing Devices may be replaced in Agricultural(A), Agricultural-Residential (A-R), and Industrial (I-1) districts.

(v) Any existing outdoor wood boiler which is abandoned or discontinued for a period of ten (10) consecutive months pending the notification process described in Section 302 F(4), shall not be permitted to be reestablished as a nonconforming use, and must be immediately removed by the property owner from the subject premises.

Section 11.15 Solar Energy Systems

(a) Solar energy systems are permitted in an all districts only with approval by the Planning Board with a Special Use Permit and Site Plan review.
(b) In a Residential (R-1) District, such Solar Energy System shall be permitted only when attached to the principal building on a lot.
(c) Setback requirements for other than R-1 Districts:
  (i) Front setback must be behind the principle building front setback requirements (see Table 1).
  (ii) Side and rear setbacks must be at least 1 ½ times the height of the Solar Energy Structure.

Section 11.16 Manufactured Home Parks

(a) Manufactured home parks may be permitted in the RA and R1 districts upon issuance of a Special Use Permit, provided that the following standards and requirements are complied with. Any changes to the approved manufactured home site plan must be presented to and approved by the Planning Board.
  (i) Size. The size of all manufactured home parks shall be minimum of two (2) acres.
  (ii) Construction and safety standards. All manufactured homes within the park shall comply with the current construction and safety standards set forth by the United States Department of Housing and Urban Development.
    1) Manufactured homes shall have a minimum habitable floor area of eight hundred (800) square feet.
    2) Solid fuel burning devices shall not be permitted within any manufactured home in a manufactured home park.
  (iii) Layout and design.
    1) Buffer zones. The site shall be located and laid out so that no manufactured home is located within one-hundred (100)feet of any adjacent public highway right-of-way or within one-hundred (100) feet of any other adjoining property line. Additional buffer areas may be required by the Planning Board if deemed necessary in order to avoid potential conflicts with existing, permitted or planned adjacent land uses.
    2) Other principal structures. A private conventional residence may be located within the confines of the manufactured home park only to the extent that it is used as an office. Lot location and minimum distances shall be fixed by the Planning Board after due consideration of each case.
    3) Interior roadways. The layout of interior roadways, driveways and walkways shall be designed and maintained in such a manner as to provide for safe, efficient and orderly vehicular and pedestrian traffic acceptable to the Planning Board after a written report from Highway Superintendent. In addition, all interior roadways shall be clearly identified by signs at each intersection. Such signs shall be acceptable to the Planning Board.
      a) Roadway (or driveway) clear zone width. All roadways shall have a minimum clear zone width if forty(40) feet which is completely clear of obstructions to a height of twelve(12) feet.

b) Roadway grades. The maximum roadway grade shall be seven percent (7%). Entrance gradients shall be less than three percent(3%)for a distance of seventy-five(75) feet from edge of the right –of-way of the public highway.

c) Minimum radius. The minimum radius of a curvature for any street shall be fifty(50) feet.

d) Alignment. Roadways shall be laid out so as to intersect as nearly as possible at right angles, and in no case shall any angle or intersection be less than seventy-five(75) degrees. Roadways in four –way intersections shall be directly across from one another or offset a minimum of one hundred twenty five(125) feet.

4) Roadways. Roadways or driveway pavement shall be located in the center of the roadway clear zone and shall be at least twenty(20) feet wide with five- foot wide shoulders. If parking provision is made within the roadway clear zone, such parking shall be off the pavement, and clear zone shall be increased accordingly.

5) Parking. Two parking spaces shall be provided for each manufactured home lot to meet the needs of occupants of the manufactured home park and their guests without interference with normal movement or vehicular or pedestrian traffic. Such parking may be in tandem. Each parking space shall have minimum dimensions of at least ten by twenty (10 x 20) feet per vehicle and shall have stone, concrete or blacktop surfacing.

6) Auxiliary Parking. Auxiliary parking areas for motor vehicles shall be provided at a ratio of one parking space to every three manufactured home units. Additional auxiliary parking areas are to be provided for parking trucks, maintenance equipment, boat trailers, utility trailers and similar such equipment and vehicles as may be determined by the Planning Board.

7) Manufactured home lot size. All lot sizes shall be a minimum 10,000 square feet, exclusive of any common areas, and shall have a minimum dimension of eighty (80) feet across the lot. No common areas such as buffer zones, roadway clear zones, auxiliary parking lots, recreational areas, service buildings and areas, etc. shall be counted towards required individual manufactured home lot areas.

8) Walkways. Walkways shall be laid out so as to connect service buildings, dry yards and storage lockers with roadways. Walkways shall also provide access to recreation areas if such areas are not located adjacent to a roadway. Each roadway shall have a walkway running parallel to it, separated from the roadway by a minimum distance of seven feet. Additional walkways may also be placed along the rear of each lot. All walkways shall be a minimum of three feet wide and thickness of four inches over four inches if ROB gravel and shall be provided with joints so designed as to minimize cracking. All walkways shall be made of concrete or blacktop or other similar material approved by the Planning Board.

9) Recreation areas. Recreation areas shall be provided in central locations at a minimum of five percent (5%) of the total park area or as required by the Planning Board. Recreational areas shall include playgrounds for children and separate areas for more passive enjoyment by adults. The playgrounds shall be equipped with play equipment for children under ten(10) years of age and should be away from traffic.

10) Public telephones. If public telephones are provided within the court, they shall be

located directly adjacent to service buildings.

11) Mailboxes. Mailboxes shall be located in compliance with United States Postal regulations and shall not be placed in any location where they constitute a safety hazard to pedestrians or to vehicles.

12) Trees. All existing trees shall be preserved in so far as possible in the design of the park.

(iv) Sitting of manufactured homes. Manufactured homes shall be so situated within the manufactured home park in conformance with the following:

1) The following minimum setback distances shall be maintained when providing specific location of mobile homes as related to each other within the park:

a) Side yard: Minimum distance of ten (10) feet to line.

b) Front and rear yards: Minimum distance of twenty-five (25) feet to line.

2) In case of irregularly shaped lot, the Planning Board may modify and vary the above provisions and shall determine the application of the above listed provisions, but in no case shall any two manufactured homes be closer than twenty(20) feet from one another.

a) No manufactured home shall be located less than fifty (50) feet from any service or storage building other than approved accessory buildings located on and serving the specific manufactured home as set forth in D10 Letter C of this chapter.

b) The percent lot coverage for an individual manufactured home lot shall be no greater than twenty-five percent (25%). No occupied travel or vacation trailer or other form of temporary-type living units shall be permitted in a manufactured home park.

c) Every manufactured home lot shall be clearly identified be a number located on a sign or light post located on the lot.

(v) Required improvements.

1) Water and sewer systems. Water supply and sewage treatment facilities shall be installed and maintained in compliance with the requirements of the New York State Health Department of Environmental Conservation and the Genesee County Health Department.

2) Underground utilities. Electrical systems, gas piping systems, cable and telephone wires shall be installed underground. Community and individual fuel storage shall be installed and maintained in compliance with the New York State Uniform Fire Prevention and Building Code.

3) Artificial lighting. Artificial lighting shall be provided from dusk to dawn to illuminate walks, driveway, roadways and parking spaces for the safe movement of pedestrians and vehicle. Specifically, roadway lighting shall be provided as follow:

a) Overhead roadway lighting shall have a minimum clearance above the pavement of twelve (12) feet and shall have a minimum power capacity necessary to meet acceptable industry standards.

b) Service buildings shall have sufficient exterior lighting fixture so as to properly illuminate entrances and side yards connected therewith.

4) Refuse disposal. It shall be the responsibility of the park owner to ensure that garbage and rubbish shall be collected and properly disposed of outside the park as

frequently as may be necessary to ensure that garbage receptacles do not overflow, but at least every seven days. This responsibility shall include either the provision of garbage cans with tight –fitting covers to each unit or dumpsters which service a number of units. Exterior property areas shall be maintained free from organic and inorganic material that might become a health, incident or fire hazard. Suitable screening shall be provided for all community refuse (dumpster) areas.

5) Manufactured home lot. Each manufactured home lot shall contain a manufactured home stand to provide adequate support for the placement and tie-down of the manufactured home. The stand shall not heave, shift or settle unevenly under the weight of the manufactured home as a result of any frost action, inadequate drainage, vibration or other such forces. The material used in constructing the stand should be durable and capable of supporting the expected load, regardless of the weather, and shall be constructed in compliance with the New York State Uniform Fire Prevention and Building Code. In addition, the footings and the load-carrying portion of the ground anchors shall extend below the frost line.

6) Patios and/or decks. Manufactured home lots may be provided with patios and/or decks. If installed, patios and/or decks may be covered and shall conform to distance separations, lot setbacks and percent lot coverage requirements and shall not be enclosed (insect screening is allowable). No permanent or habitable additions shall be allowed.

7) Storm water drainage. Storm water drainage will be designed in conjunction with the towns engineers and NYSDEC and the planning board and the Genesee County Soil and Water Conservation District. At the sole cost of the expense of the applicant.

8) Service buildings. The developer shall be required to furnish service buildings in conformance with the following:

a) Service buildings shall be located in such a way as to prohibit primary access directly adjacent to a manufactured home lot.

b) Service buildings housing sanitation and laundry facilities or any other facilities shall be permanent structures complying with the New York State Sanitary Code.

c) The service buildings shall be well lighted at all times from dusk to dawn; be well ventilated with screened opening; be constructed of such moisture proof material, including painted woodwork, as shall permit repeated cleaning and washing; and be maintained at a temperature of at least sixty-eight degrees (68) Fahrenheit during the period of October 1st to June 1st. The floors of such buildings shall be of concrete and supplied with drains.

9) Additional structures on manufactured home lots. Additional structures on manufactured home lots are subject to the following:

a) No non integral structural addition or other accessory building or structure in excess of one hundred(100) square feet shall be permitted on any mobile home lot.

b) Accessory buildings and awnings shall conform to distance separations, lot setbacks and percent lot coverage requirements.

c) Accessory buildings shall not be placed in front yards.

10) Manufactured home park owner obligations. In general, home parks shall be properly maintained so as to ensure the desirable residential character of the property.

Specifically, the following shall apply:

a) Yard maintenance. Manufactured home parks shall be maintained reasonably free from holes, excavations, sharp protrusions and other objects or conditions which might be a potential cause of personal injury. Walks, steps, driveways and roadways that contain holes or tripping hazards shall be filled, repaired or replaced as the need indicates. Trees or limbs of trees that constitute a hazard shall be removed. Snow removal is the responsibility of the manufactured home park owner. Buffer areas shall be mowed and maintained by the manufactured park owner.

b) Noxious weeds. Ragweed and other noxious weeds considered detrimental to health, such as a poison ivy or poison sumac, shall be completely eliminated from all areas of the manufactured home park. Open areas shall be maintained free of heavy undergrowths of any description.

c) Accessory structures. All accessory buildings or structures shall be kept in good repair, free from health, fire and accident hazards. They shall be of durable construction and appropriate for the intended use and location. Exterior wood surfaces of all structures that are not inherently resistant to deterioration shall be periodically treated with a protective coating or paint or suitable preservative.

d) Gravel areas. All areas surfaced with gravel shall be kept clear of all forms of vegetation.

e) Infestation. Grounds and structures shall be maintained free of insect, vermin and rodent harborage and infestation. Methods used for purposes of extermination shall conform to generally accepted practice.

11) Manufactured home park plans and registration of manufactured home park occupants. It shall be the duty of each manufactured park owner/operator to keep a register containing a record of all manufactured home owners and occupants located within the park. This register shall contain the following:

a) The name and legal address of all occupants.

b) The name and address of the owner of each manufactured home.

c) The make, model, year and license number of each manufactured home.

Section 11.17 Manufactured Homes-Single

(a) Regular housing situation.

(i) Single manufactured homes may be permitted temporarily on a lot in the A-R Districts, upon the issuance of a temporary use permit. In order to apply for such a temporary use, there must first be a valid permit issued for the erection of a residential dwelling on that lot, and the manufactured home unit must comply with the current construction and safety standards set forth by the United States department of Housing and Urban Development. Such mobile home shall be removed from the lot upon expiration of the temporary use permit or upon completion of the dwelling, whichever condition comes first.

(ii) All such manufactured homes shall comply with Subsections C (a),(c), (d),(e) and (f) below.

(b) Emergency housing situation.

(i) Single manufactured homes or recreational vehicles may be permitted as a temporary residence in any district upon the determination that an emergency housing situation exists. Such emergency housing situation shall be limited to either man- made or natural disasters (i .e. fire. Flooding, hazardous material incidents, etc.) which rendered existing housing units uninhabitable.

(ii) The location of such emergency housing is not limited to the site containing the uninhabitable housing unit. The Zoning Enforcement Officer may grant a nonrenewable temporary emergency housing permit for a period of time not exceeding ninety (90) days. Any extension shall only be granted by the Planning Board. Such manufactured home shall be removed from the lot upon expiration of the emergency housing permit.

(c) Single manufactured home; replacement of existing unit.

(i) An existing manufactured home which is occupied as a one-family dwelling on any lot in an A or A-R District may be replaced with another manufactured home, provided that the following criteria are met:

1) The replacement manufactured home unit shall be constructed in accordance with regulations set forth in the Compilation of Federal Regulation (CFR), Title 24, Housing and Urban Development, Chapter XX, Office of Assistant Secretary for Housing –Federal Housing Commissioner, Department of Housing and Urban development, Part 3280, Manufactured Home Construction and Safety Standards.

2) The location of the replacement manufactured home shall not increase the degree of nonconformity (other than unit size and square footage) relative to the area requirements that exist with the current mobile home.

3) The manufactured home shall be installed in compliance with the New York Uniform Fire Prevention and Building Code and shall be protected from ground frost heaves by one of the following methods in compliance with the New York Uniform Fire Prevention and Building Code.

4) The manufactured home shall be skirted with a noncombustible material so as to enclose the area between the floor of the manufactured home and the ground. Such skirting is to be properly ventilated and must be completed within thirty(30) days after arrival.

5) The water supply system and sewage disposal system for the manufactured home shall be approved by the County Health Department.

6) The manufactured home shall have a minimum floor area of eight-hundred(800) square feet.

Section 11.18 Dwelling, Accessory Apartment

(a) The Planning Board may approve a Special Use Permit for an accessory apartment with in the A-R District, provided that the following standards and conditions are maintained:

(i) It is the intent of the Town to provide housing opportunities for elderly residents or for infirm family members who require extended personal care but are not so infirm as to require full-time care or nursing supervision to live in an apartment within the same structure as the occupants of the principal residence in quarters which are accessory to the principal residence. Should there be a change in the conditions existing

at t the time of the approval of the special permitted use permit; the permit shall become null and void.

(ii) The accessory apartment shall be occupied by a parent, either by blood, marriage, adoption or other domestic bond, of a member of the family residing in the principal residential unit on the premises.

(iii) If the resident proposed to be the occupant of the accessory apartment is not a parent of the occupant of the principal residential unity, the applicant shall supply a letter from a physician certifying that the intended occupant of the accessory apartment cannot function independently and is in need of extended personal care but is not so infirm as to require full-time care or nursing supervision.

(iv) No external change in the appearance of the structure shall be made that would distinguish the premises from a single-family residence.

(v) The accessory apartment shall not exceed thirty –five percent (35%) of the total floor area of the principal building or nine-hundred and fifty(950) square feet, whichever is greater.

(vi) The owner of the residence in which the accessory unit is created shall occupy at least one of the dwelling units on the premises.

(vii) No less than three off-street parking spaces shall be provided to serve the residents of the principal and accessory residential unit.

(viii) No more than one accessory apartment may be created on any single property.

(ix) The approval granted by the Planning Board shall be for a two-year period and may be renewed for the same period of time as long as the same conditions are in effect and the property is owned by the same person or persons. If title to the property changes, if the parent is deceased or the resident requiring extended care no longer occupies the accessory unit, the permit shall not be renewed and the facilities that provide for independent occupancy (i.e., kitchen and bath facilities) shall be removed. As an alternative to the removal of the facilities, the occupant of the principal residential unit shall submit plans to show that there is unhindered internal access to the entire dwelling as a condition of the continuation of the certificate of occupancy.

Article XII. VIOLATIONS, PENALTIES, AND COMPLAINTS

Section 12.01 Violations and Penalties

(a) It shall be unlawful for any person, firm, or corporation to construct, alter, repair, move, equip, use or occupy, or change the use of any building, structure, or land or part thereof in a manner not permitted by this Town Law or without the issuance of a valid Zoning Permit or Certificate of Compliance as required by this Town Law.

(b) It shall be further unlawful for any person to fail to comply with a written order of the Zoning Enforcement Officer within the time fixed for compliance therewith.

(c) Appearance Ticket—The Zoning Enforcement Officer may issue an appearance ticket to any person who fails to respond to a notice of violation and written order to correct the violation.

(d) It shall be unlawful for any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents, or for any person taking part or assisting in

the construction, alteration, repair, or use of any building, structure or land, to violate any of the applicable provisions of this Town Law or any lawful order, notice, directive, permit or certificates issued or made hereunder.

(e) Any violation of this Section and/or this Town Law shall be deemed an offense punishable by a fine and/or imprisonment as set forth in Section 268 of New York State Town Law. Every week such violation continues shall be deemed a separate and distinct violation.

(f) The Zoning Enforcement Officer may, with permission of the Town Board, engage the Town Attorney or any other attorney approved by the Town Board to initiate legal action to enforce provisions of this Town Law.

(g) In addition to the foregoing remedies, the Town of Byron and/or its appropriate officials and authorities may maintain an action for injunction to restrain, correct, or abate any violation of this Town Law and/or maintain an action at law for damages sustained as a result of any violation of this Town Law and/or seek any other remedy permitted by law including Town Law Section 268. Damages may include, but not be limited to, the legal fees and court costs expended or incurred by the Town as a result of any legal proceedings brought hereunder.

Section 12.02 Complaint of Violations

(a) In case of any new violation of any of the provisions of this Town Law or conditions imposed by the Planning Board or Board of Appeals in addition to other remedies herein provided, the Town Board may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure, or land or to prevent any illegal act, conduct, business, or use in or about such premises.

(b) Whenever a violation of this Town Law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing, signed, and shall be filed with the Zoning Enforcement Officer who shall properly record such complaint, investigate it, and take appropriate action in a timely manner.

SCHEDULE I
MINIMUM HABITABLE FLOOR AREAS

Type of Use	**Minimum Habitable Floor Space**
Apartment 1 bedroom	750 square feet
Apartment 2 bedroom	900 square feet
Apartment 3 bedroom	1000 square feet
Efficiency Unit	550 square feet

Townhouse 2 bedroom or less	850 square feet
Townhouse 3 bedrooms or more	1000 square feet
Single family dwelling	950 square feet
Two family dwelling	1500 square feet

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Town of Byron - Table 1

District	Permitted Uses	Minimum Lot Size (4) (sq. ft.)	Minimum Frontage (feet)	Minimum Depth (4) (feet)	Minimum Yards (feet) front	Minimum Yards (feet) rear	Minimum Yards (feet) side	Accessory bldg. side setback	Accessory bldg. rear setback	% Maximum Lot Coverage	Maximum Height (feet)	Buffer	Site Plan
A Agricultural	Ag building wind & cell tower	0	0	0	20	10	10	10	10				
A-R Agricultural-Residential	Single Family Dwelling	40,000	150	200	50	30	15	10	10	20	35		
	Single Family Dwelling Sewer & public water	35,000	125	175									
	Two Family Dwelling	45,000	150	250									
	Two Family Dwelling Sewer & public water	40,000	125	225									
	Multi-Family (3)	3,000	175	300		75	30			30	35		Yes
	Non-Residential	80,000	200	250		75	30			30	35	Yes	Yes
R-1 Residential	Single Family Dwelling	30,000	150	175	50	30	15	10	10	20	35		
	Single Family Dwelling - sewer	25,000	100	150									
	Single Family Dwelling Sewer & public water	20,000	100	150									
	Two Family Dwelling	35,000	150	200									
	Two Family Dwelling - sewer	30,000	125	175									
	Two Family Dwelling Sewer & public water	25,000	125	175									
	Multi-Family (3)	3,000	160	250		75	30			30	35		Yes
	Non-Residential	80,000	250	300		75	30			30	35	Yes	Yes
C-1	Retail & Service (1)	40,000	150	200	50	30	15			30	35		Yes
C-2	Commericial-Retail (1)	80,000	250	300	60	30	50			30	35	Yes	Yes
I-1 Industri	Industrial (2)	80,000	250	300	75	30	30			30	35	Yes	Yes

Town of Byron - Table 1

(1) No commercial or business structure shall be located within 50 feet of a Residential (R-1) District

(2) No Industrial structure shall be located within 100 feet of a Residential (R-1) District

(3) Two family lot size plus 3,000 sq. feet per each dwelling unit over two dwelling units

(4) Excludes the highway right-of-way (ROW)