

**TOWN OF YORKSHIRE**  
**CATTARAUGUS COUNTY, NEW YORK**  
**ZONING LAW**

June 25, 2001

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## **ARTICLE 1. INTRODUCTION**

### **Section 1.1 PREFACE**

In developing land use regulations for the Town of Yorkshire, the goal has been to accomplish three things:

- Implement the comprehensive plan "The Yorkshire Vision"
- Protect and preserve the rural character and agricultural lands of the Town of Yorkshire.
- Provide a comprehensive and efficient review procedure for development

The Town of Yorkshire, through a comprehensive planning process, has decided that it is desirable and necessary to regulate the various aspects of land use in order to protect property values, and to encourage and administer future growth and development.

The Town of Yorkshire, being respectful of the individual rights of its citizens, seeks to minimize any burden land use regulations, hereinafter termed the zoning law, might impose.

The purpose of the zoning law is to maintain not only the rural appearance and physical rural character of the Town of Yorkshire, but also its agricultural land and independent way of life and its social environment. This rural tradition is one in which the property owners are free to use their property in any manner that does not harm or disrupt their neighbors, the Town, or the region as a whole.

The Town of Yorkshire, within the broad framework established by "The Yorkshire Vision" and zoning law, wishes to encourage the growth of small businesses that provide employment and diversification of the local economy without adversely impacting community resources and character, or the environment.

The Town of Yorkshire enacted the zoning law based on the view that zoning should be simple to understand, provide flexibility, and fulfill its objectives. The premise is that land uses are best decided on a case-by-case basis, using the sound discretion, experience, and common sense of neighbors, landowners, and town officials, within the framework of the zoning law.

## **Section 1.2 Enacting Clause**

Pursuant to the authority conferred by Article 16 of the Town Law and Articles 2 and 3 of Municipal Home Rule Law of the State of New York, the Town Board of the Town of Yorkshire hereby adopts and enacts the following law.

## **Section 1.3 Title**

This law shall be known as "The Town of Yorkshire Zoning Law."

## **Section 1.4 Purpose**

The purposes of this zoning law are to retain and provide for orderly growth in accordance with Yorkshire's comprehensive policy plan, "The Yorkshire Vision". The zoning law purpose is to promote the public health, safety and general welfare. More specifically, to protect property and property values; secure the most appropriate uses of land; preserve agricultural lands; lessen or avoid congestion in public streets and highways; facilitate adequate but economical provision of public improvements; prevent the overcrowding of land; and to avoid undue concentration of population.

## **Section 1.5 Applicability**

This law shall apply on its effective date to all uses which have not been substantially commenced, and structures which have not been substantially constructed, regardless of the status of permits or certificates of occupancy issued pursuant to the New York State Uniform Fire Prevention and Building Code.

## **Section 1.6 Replaced, Superseded and Repealed Laws and Ordinances**

A. Mobile Homes and Mobile Home Courts Local Law in the Town of Yorkshire, adopted on April 22, 1991, as amended, is hereby replaced and superseded by this local law.

B. Hazardous Waste and Prohibition Law of the Town of Yorkshire, as adopted September 12, 1983, as amended, is hereby replaced and superseded by this local law.

C. Solid Waste Disposal Law of the Town of Yorkshire, amended, as adopted August 21, 1996, is hereby replaced and superseded by this local law.



## **ARTICLE 2. DEFINITIONS**

### **Section 2.1 General**

The following rules shall apply to interpreting the text of this law:

1. Words used in the present tense shall include the future.
2. Words used in the singular shall include the plural, and words used in the plural shall include the singular.
3. Words used in the masculine form shall include the feminine.
4. The word "shall" is mandatory. The word "may" is permissive.
5. The word "lot" shall include the words "plot," "piece," and "parcel."
6. The word "person" shall include an individual, firm or corporation.
7. The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
8. The phrases "to erect," "to construct," and "to build" a building have the same meaning and include the excavation for a building foundation and the relocation of a building from one location to another.

### **Section 2.2 Specific Definitions**

The following words and terms, wherever they occur in this law, shall be interpreted as herein defined.

**ABANDONMENT** To cease or discontinue a use.

**ACRE** A measure of land area containing 43,560 square feet.

**ACCESSORY APARTMENT** A second dwelling unit either in or added to an existing single-family detached dwelling, or in a separate accessory structure on the same lot as the main dwelling, for use as a complete, independent living facility with provision within the accessory apartment for cooking, eating, sanitation, and sleeping. Such a dwelling is an accessory use to the main dwelling.

**ACCESSORY BUILDING** A structure located on the same lot as a principal building and used for purposes customarily incidental to and subordinate to the principal structure.

**AGRICULTURE** Farming, production of field crops, dairying, pasturage, horticulture, floriculture, agriculture, production of maple sap, tree farms, and animal and poultry husbandry. The term "agriculture" shall also include necessary accessory uses for packing, treating or storing the products, provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.

**AIRSTRIP, PRIVATE** Any land used for the purpose of landing, taxiing, taking off or storing of private aircraft, pursuant to the regulations of the appropriate authority.

**ALTERATION** As applied to a building or structure, any change, other than incidental repairs, that would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams and girders. "Alteration" also includes any enlargement of a building or structure, whether by extending on a side or by increasing in height, or moving it from one location or position to another.

**ANTENNA** A system of electrical conductors that transmits or receives radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, and microwave communication. The frequency of these waves generally ranges from 10 hertz to 300,000 megahertz.

**AREA, BUILDING** The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps. All dimensions shall be measured from exterior wall to exterior wall.

**AREA, LOT** The total area within the boundary lines of a lot.

**AREA VARIANCE** See Variance, Area

**ART AND CRAFTS STUDIO** An accessory use conducted either within a single family dwelling or in a building accessory to a single family dwelling by one or more of its residents. An art and crafts studio shall house occupations such as painting, sculpting, ceramic-molding, weaving, and woodworking.

**AUTOMOBILE BODY SHOP** A building used for the repairing or painting of the exterior and/or the undercarriage of motor vehicle bodies, in conjunction with which there may be towing service and motor vehicle rentals for customers while the motor vehicle is under repair.

**AUTOMOBILE GASOLINE STATION** A retail establishment where motor vehicle fuels and lubricants are sold to individuals.

**AUTOMOBILE REPAIR SHOP** An establishment where motor vehicle fuels and lubricants are sold and where repairs, servicing, greasing, and adjusting of automobiles and other motor vehicles may be performed. All sales and storage of accessories and repairing and servicing shall be conducted within a wholly enclosed building. No vehicles will be left on the premises for more than two weeks. Repair work does not include body work or painting.

**AUTOMOBILE SALES LOT** A lot, building or structure where new or used automobiles, trucks, or motorcycles are available for sale.

**BANK** An institution where money is deposited, kept, lent, or exchanged.

**BAR** A business establishment licensed by the State of New York to serve alcoholic beverages which is designed primarily for the consumption of such alcoholic beverages on the premises, irrespective of whether or not food and/or entertainment are also provided as accessory uses.

**BARBER SHOP** See Hairdressing Establishment.

**BARN** A building used to house animals and feed for those animals.

**BASEMENT** A portion of a building which is partly underground, but in which more than one-half of its height, measured from floor to ceiling, is above the average finished grade at the point where the grade meets the exterior walls of the building. (See also Cellar)

BEAUTY SHOP See Hairdressing Establishment.

BED AND BREAKFAST ESTABLISHMENT A single family dwelling in which the residents thereof provide overnight accommodation and meals to travelers. A bed and breakfast establishment shall have a maximum of four (4) rooms available for overnight guests.

BUILDING Any structure which has one or more floors and a roof, which is wholly or partially enclosed by walls, which is permanently affixed to the land, and which is intended for the shelter or enclosure of persons, animals or chattel.

BUILDING, ACCESSORY See Accessory Building.

BUILDING AREA See Area, Building

BUILDING INSPECTOR The administrative officer appointed by the Town Board to enforce the provisions of New York State's Uniform Code for Fire Prevention and Building Code.

BUILDING PERMIT Written approval from the Building Inspector to develop, construct or alter a structure or building.

BULK STORAGE The storage of chemicals, petroleum products and other materials in containers for subsequent resale to distributors or retail dealers or outlets.

CAMPGROUND An area used for a range of overnight camping experiences, from tenting to serviced trailer sites, including accessory facilities which support the use, such as administration offices and laundry facilities, but not including the use of mobile homes on a year round basis.

CAMPING UNIT Any tent, lean-to, cabin or similar structure, houseboat, or recreational camping vehicle, excluding mobile homes, established or maintained and operated in a campground as temporary living quarters for recreation, education or vacation purposes.

CAMPSITE Any area of land within a campground intended for the exclusive occupancy of a single camping unit.

CARPORT A building or structure, or part thereof, which is not wholly enclosed and is used for the parking of private passenger vehicles.

CELLAR A portion of a building which is wholly or partly underground and in which more than one-half of its height, measured from floor to ceiling, is below the average finished grade at the point where the grade meets the exterior walls of the building. (See also Basement)

CEMETERY Land that is set apart or used as a place for the internment of the dead.

CERTIFICATE OF COMPLIANCE A certificate issued by the Code Enforcement Officer that certifies that conditions specified in this zoning law have been met, that the parcel is properly zoned for the use that is proposed, and that the intended use is allowable. Said certificate shall acknowledge any adjustments to the requirements of this law granted by the Zoning Board of Appeals. Certificates of compliance will be issued after all necessary construction has been completed and prior to occupancy of the structure.

**CERTIFICATE OF OCCUPANCY** A permit issued by the Building Inspector upon completion of construction, alteration or change in occupancy or use of a building.

**CHURCH** A building in which persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship.

**CLUB** An association catering exclusively to members and their guests. "Club" shall also mean, where the context requires, premises owned or occupied by members of such association, within which the activities of the club are conducted. Such activities shall not be conducted primarily for gain, except as required generally for the purposes of such club.

**CLUSTER DEVELOPMENT** A form of development for residential subdivisions that permits a reduction in lot area requirements, provided there is no increase in the number of lots permitted under a conventional subdivision and the resultant land area is devoted to open space.

**CODE ENFORCEMENT OFFICER** Any person appointed by the Town Board to enforce the provisions of this zoning law.

**COMMERCIAL USE** Activity carried out for pecuniary gain.

**CONTRACTING STORAGE** Any area used for the outdoor storage of contracting equipment and building or construction materials.

**COVERAGE** That portion of the lot that is covered by buildings and structures.

**DAY CARE FACILITY** An establishment where five or more children under age six, excluding members of the family occupying the premises, are cared for.

**DEVELOPMENT** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

**DRUG STORE** A store where the primary business is the filling of medical prescriptions and the sale of drugs, medical devices and supplies and nonprescription medicines, but where non-medical products are sold as well.

**DWELLING UNIT** A building or portion thereof that provides complete housekeeping facilities for one family. Each dwelling unit shall have its own sleeping, cooking, and toilet facilities. A dwelling unit is designed for permanent occupancy and shall not be construed to include a hotel, motel or other such use of a transient nature.

**DWELLING, SINGLE FAMILY** A building that contains one dwelling unit, a minimum of 24 feet wide and a minimum of 750 square feet.

**DWELLING, TWO FAMILY** A building that contains two dwelling units. The units may be side-by-side, sharing a common wall, or the units may be on separate floors, one above the other.

**DWELLING, MULTIPLE FAMILY** A building that contains three or more separate dwelling units.

**ESSENTIAL SERVICES** The erection, construction, alteration, or maintenance by public utilities or governmental agencies of collection, communication, transmission, distribution or disposal systems necessary for the furnishing of adequate public service or for public health, safety or general welfare, but not including buildings. These include telecommunications towers.

**FAMILY** One or more persons living, sleeping, cooking or eating on the same premises as a single house-keeping unit.

**FARM STAND** An establishment in which are sold agricultural products.

**FINANCIAL INSTITUTION** The premises of a bank, savings and loan company, trust company, finance company, mortgage company, or investment company.

**FINISHED GRADE** The elevation at which the finished surface of the surrounding lot meets the walls or supports of a building or structure. If the finished grade is not reasonably horizontal, the average elevation of all sides of the structure shall be used for purposes of computing the height of the building or structure.

**FLOOD or FLOODING** A general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland or tidal waters (2) the unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD, BASE** The flood having a one (1) percent chance of being equaled or exceeded in any given year.

**FLOOD WAY** 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 more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in the Town of Yorkshire's Flood Damage Prevention Law.

**FOOD PREPARATION, WHOLESALE** A commercial establishment in which food is processed or otherwise prepared for human consumption, but which is not consumed on the premises.

**FORESTRY** The use of land for the purpose of conservation and/or the growing and cutting of trees for the purpose of producing commercial or non-commercial wood products such as furniture and firewood, but shall not include the manufacturing or processing of such products.

**FRONTAGE** The minimum straight line distance between the intersection of the side lot lines and the front lot line.

**FULL STATEMENT OF PROPOSED ACTION** As used in Section 12 and elsewhere in this local law, a full statement of the proposed action means all materials required by and submitted to the Planning Board as an application on the proposed action, including a completed environmental assessment form and all other materials required by the Planning Board in order to make its determination of significance pursuant to the State Environmental Quality Review Act. When the proposed action referred to the County Planning Board is the adoption or amendment of the zoning law, a "full statement" shall also include the complete text of the proposed law, as well as all existing provisions to be affected thereby, if any, if not already in the possession of the Cattaraugus County Planning Board. However, the Planning Board and the County Planning Board may jointly agree on what constitutes a full statement.

**GARAGE** An accessory building, or part of the principal building, which is designed and used primarily for the storage of motor vehicles that belong to the occupants of the dwelling unit with which it is associated.

**GARAGE SALE** See Yard Sale

**GOLF COURSE** A public or private area operated for the purpose of playing golf, and which may include a club house and accessory driving ranges.

**GROCERY STORE** A retail establishment primarily selling food.

**GROSS FLOOR AREA** For the purpose of determining requirements for off-street parking and off-street loading, the gross floor area shall mean the sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to such use, including accessory storage areas located within selling or working space such as counters, racks or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

**GROSS LEASEABLE AREA** The total floor area for which the tenant pays rent and which is designed for the tenant's occupancy and exclusive use.

**HAIRDRESSING ESTABLISHMENT** A commercial establishment providing a personal service to men, women or children by shampooing, cutting, styling, tinting or treatment of hair, by giving manicures, pedicures or facial treatments or by the use of cosmetic products, and, without limiting the generality of the foregoing, includes a barber shop and beauty salon.

**HEIGHT** The vertical distance between the finished grade and the highest point of the structure. Accessory roof construction such as a chimney, steeple or antenna shall not be included.

**HOME OCCUPATION** An accessory use, in which an occupation is conducted for gain in a dwelling unit by the resident or residents.

**HOME OCCUPATION, MINOR** A home occupation in which no persons other than members of the family residing on the premises are engaged in the occupation, which has no visible exterior evidence of the conduct of the occupation, which does not create a need for off-street parking beyond normal dwelling needs, which does not generate additional traffic, and in which no equipment is used other than that normally used in household, domestic, or general office use.

**HOME OCCUPATION, MAJOR** A home occupation in which not more than one person other than members of the family residing on the premises is employed on the premises, which has not more than one unilluminated sign not exceeding six square feet in area as visible exterior evidence of conduct of the occupation, and which accommodates both dwelling and home occupation parking needs off the street.

**HOTEL** A building or group of buildings where sleeping accommodations are provided to the public for transient occupancy. A hotel may or may not include group dining facilities.

**INN** See Hotel

**INDUSTRIAL FACILITY** Any use of land for construction; manufacturing; transportation, communication, electric, gas, and sanitary services.

**JUNK** The outdoor storage or deposit of any of the following items:

1. Two or more junk vehicles;
2. One or more abandoned mobile homes or recreational camping vehicles;
3. Two or more abandoned all-terrain vehicles or snowmobiles (as defined in the New York State Vehicle and Traffic Law);
4. Two or more inoperable appliances including, but not limited to, lawn and garden machines, washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions;
5. Two or more inoperable pieces of equipment;

6. Collection and storage of any second-hand or used material which, taken together, equal in bulk volume 500 cubic feet or more;
7. Any combination of the above, or parts of the above, that total two or more items.

JUNKYARD The outdoor storage or deposit of any of the following:

1. Five or more junk vehicles;
2. Two or more abandoned mobile homes or recreational camping vehicles;
3. Two or more abandoned all-terrain vehicles or snowmobiles (as defined in the New York State Vehicle and Traffic Law);
4. Five or more inoperable appliances including, but not limited to, lawn and garden machines, washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions;
5. Five or more inoperable pieces of equipment;
6. Collection and storage of any second-hand or used material which, taken together, equal in bulk volume 2000 cubic feet or more;
7. Any combination of the above that totals five items.

This definition shall not be construed to include the on-premise storage and maintenance of motor vehicles, machinery and equipment used in the business of farming, logging, contracting, and manufactured housing. This definition shall not be construed to include the parking and storage of motor vehicles in connection with a New York State licensed new and/or used car business or a bona fide motor vehicle repair business and the parking of not to exceed ten vehicles in the process of waiting for repairs.

JUNK STORAGE AREA The area of any parcel of land intended to be used for the placement or storage of junk.

JUNK VEHICLE Any motor vehicle, whether automobile, bus, trailer, truck, tractor, motor home, motorcycle, mini-bike, or snowmobile, or any other device originally intended for travel on the public highways, which meets all of the following conditions:

1. Its registration has expired;
2. It is either abandoned, wrecked, stored, discarded, dismantled, or partly dismantled;
3. It is not in any condition for legal use upon the public highway.

With respect to any motor vehicle not required to be licensed or motor vehicle not usually used on public highways, the fact that such motor vehicle has remained unused for more than six months and is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is a junk vehicle.

KENNEL An establishment for the boarding, keeping, breeding and raising of domesticated animals, excluding livestock, for profit. The term "kennel" shall not include the keeping of animals in a veterinary hospital for the purpose of observation and/or recovery necessary to veterinary treatment.

LAND Any area of the earth's surface, including areas covered by water.

LIBRARY A building containing printed and pictorial material for public use for purposes of study, reference and recreation.

LICENSE Written permission to operate a business for a specified period of time, granted upon approval of a special use permit by the Planning Board, which is renewable upon certification that such business has been operated in compliance with this law.

LOGGING The removal or cutting of logs from harvestable timber for commercial purposes.

LOT A parcel of land with frontage on a street or road, whether or not occupied by a building or structure, which is in one ownership.

LOT AREA See Area, Lot.

LOT, CORNER A lot located at the intersection of, and abutting upon, two or more streets. A corner lot is not a through lot.

LOT COVERAGE The percentage of the lot area covered by buildings and structures, including accessory buildings and structures, but excluding parking areas, driveways and walkways.

LOT FRONTAGE The length of the front lot line measured at the road line.

LOT LINE A property line bounding a lot which divides one lot from another lot or from a public or private road or any other public space.

LOT THROUGH A lot which faces two streets at opposite ends of the lot and which is not a corner lot.

LOT OF RECORD A lot for which a valid conveyance has been recorded in the Office of the County Clerk prior to the effective date of the Town of Yorkshire Subdivision Regulations; or, is either part of a subdivision plat approved by the Planning Board and filed in the County Clerk's office, or was exempt from the Town of Yorkshire Subdivision Regulations at the time of recording with the County Clerk.

LOT WIDTH The average horizontal distance between the side lot lines.

MANUFACTURING Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials.

MANUFACTURED HOME A transportable, factory-built home designed to be used as a year-round residential dwelling that is manufactured according to the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (24 CFR 3280 HIJD Code). The term "manufactured home" does not include a trailer.

MANUFACTURED HOUSING COMMUNITY Land on which manufactured homes are located, or which is maintained for use by two or more manufactured homes.

MANUFACTURED HOME SITE An area of land in a manufactured housing community intended for the exclusive occupancy of a single manufactured home.



**MARINE A** commercial facility for the storing, selling, renting, servicing, fueling or securing of pleasure boats.

**METES-AND-BOUNDS A** method of describing the boundaries of land by directions and distances from a known point of reference.

**MOBILE HOME A** single family dwelling that is built in an off-site manufacturing facility for installation or assembly at a building site, designed to be a permanent residence, and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974. The term "Mobile home" does not include a trailer.

**MOTEL A** hotel primarily for transients traveling by automobile, with a parking space on the lot for each lodging unit, and with access to each such unit directly from the outside. A motel may or may not include group dining facilities.

**MULTIPLE FAMILY DWELLING** Any of the following: 1) a series of attached, detached or semi-detached buildings, which are provided as a group collectively with essential services and utilities, and which are located on a lot, plot or parcel of land, under common ownership; or 2) the residential part of a mixed occupancy building; or 3) any residential building on a single zoning lot containing more than two dwelling units.

**MUSEUM A** building, owned by a for-profit or a not-for-profit organization, which contains a collection of artifacts of interest and in which the artifacts are conserved, studied, interpreted, and exhibited to the public for its enjoyment and instruction with or without fees.

**NONCONFORMITY A** lot of record, structure, or use of land which lawfully existed prior to the enactment of this law, or conformed to the regulations of the zone in which it was located prior to the amendment of this law; which does not conform to the regulations of the zone in which it is located following the enactment or amendment of this law.

**NURSERY SCHOOL A** privately-owned school for two or more children ages two to five, which provides instruction as well as child care.

**NURSING HOME** An institution, other than a hospital, in which persons are lodged and furnished with care rather than diagnoses or treatment.

**OFFICE BUILDING, LARGE A** building of over 2,000 square feet of gross floor area used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity, that may include ancillary services for office workers.

**OFFICE BUILDING, SMALL A** building of 2,000 square feet or less of gross floor area used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity.

**PARKING LOT** An open area of land, other than a street, used for the temporary parking of two or more motor vehicles and available for public use whether free, for compensation, or as an accommodation for clients or customers or residents, but does not include the storing of impounded or wrecked vehicles.

**PARKING SPACE** An area exclusive of driveways, ramps, or columns, in which one vehicle can be parked.

**PARK** An area permanently devoted to recreational uses and generally characterized by its natural, historic, or landscaped features, and used for both passive and active forms of recreation.

PERMIT, SPECIAL USE See Special Use Permit.

PERMIT, ZONING See Zoning Permit.

PHOTOGRAPHIC STUDIO Premises used for portrait and commercial photography, including developing and processing of film, sale of film and photographic equipment, and repair or maintenance of photographic equipment.

PLACE OF WORSHIP A building, such as a church, chapel, temple, synagogue, or mosque, in which persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship. The building may include such accessory uses as a nursery school, a school of religious education, or parish hall.

PLANNING BOARD The Town of Yorkshire Planning Board.

PLAT A map of a subdivided tract of land showing the boundaries and location of individual properties and roads.

PRINCIPAL STRUCTURE A structure through which the principal use of the lot on which it is located is conducted.

PRINCIPAL USE See Use, Principal.

PUBLIC AND SEMI-PUBLIC FACILITY Any one or more of the following uses, including grounds and accessory buildings necessary for their use: playgrounds and recreational areas; schools; public libraries; fire, ambulance and public safety buildings; and public meeting halls and community centers.

PUBLIC UTILITY Any person, firm, corporation or municipal department duly authorized under public regulation to furnish to the public electricity, gas, steam, telephone, fiber-optics, transportation, water or sewer.

RECREATIONAL CAMPING VEHICLE Any enclosed motor vehicle or trailer used or designed to be used for recreational travel and temporary living and/or sleeping purposes including motor homes, truck campers, camping trailers, campers, travel trailers, pop-up trailers, tent trailers, and over-night trailers.

RESTAURANT An establishment which is primarily engaged in serving food and beverages which are consumed on its premises by customers seated at tables and/or counters either inside or outside the building, and, as an accessory use, may be engaged in providing customers with take-out service of food and beverages for off-site consumption.

RESTAURANT, TAKE-OUT An establishment in which the design of the physical facilities and the serving or packaging procedures permit or encourage the purchase of prepared, ready-to-eat foods intended to be consumed off the premises, and where the consumption of foods in motor vehicles on the premises is not permitted.

RETAIL SALES AND SERVICE A commercial establishment engaged in selling goods or merchandise to the general public for personal or household consumption; or providing retail services or entertainment to the general public such as eating and drinking establishments, finance, real estate and insurance, personal services, amusement and recreational services, health, educational and social services; and not including sales and service for new and used automobiles, trucks, mobile homes, boats, recreational vehicles, farm implements, tree nurseries and other large items stored outdoors for retail sales.

**RETAIL SALES AND SERVICE, LARGE** A retail sales and service establishment of more than 2,000 square feet of gross floor area of a single building or a combination of buildings.

**RETAIL SALES AND SERVICE, SMALL** A retail sales and service establishment of 2,000 square feet or less of gross floor area.

**RIDING STABLES** An establishment in which horses are boarded and may also be available for hire. A riding stable may also provide lessons in riding, handling, training, and care of horses.

**ROAD** A public way for vehicular traffic which affords the principal means of access to abutting properties.

**ROAD LINE** The right-of-way line of a road as dedicated by a deed or record. Where the width of the road is not established, the road line shall be considered to be 25 feet from the center line of the road pavement.

**SATELLITE DISH ANTENNA** A structure designed and used for the reception of television signals relayed back to earth from a communications satellite.

**SAWMILL** A non-portable manufacturing facility where logs are sawed, including the on-site storage of any materials used in the manufacturing process.

**SETBACK, BUILDING** The least horizontal distance permitted between a lot line of a lot and the nearest portion of any building on such lot.

**SIGN** Any letter, word, symbol, drawing, picture, design, device, article or object that advertises, calls attention to or indicates any premises, persons, products, businesses or activities, whatever the nature of the material and the manner of composition or construction.

**SIGN, FREESTANDING** Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

**SIGN, ROOF** Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

**SIGN, WALL** Any sign attached parallel to, but within six inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

**SITE** Any area of land to be used, developed, or built upon as a unit.

**SITE PLAN** A scale drawing showing the relationship between the lot lines and building or structures, existing or proposed on a lot, including such details as parking areas, access points, landscaped areas, building areas, setbacks from lot lines, building heights, and densities. See also Article 9 of this law.

**SPECIAL USE PERMIT** A permit for special uses which must be approved by the Planning Board, granting permission to the Zoning Officer to issue a zoning permit.

**SPECIAL USE** A use of land which requires review and approval of the Planning Board prior to the issuance of a special use permit by the Planning Board or a zoning permit by the Zoning Officer.

**STABLE** A detached accessory building on a residential lot used for the keeping of horses, mules, donkeys or ponies owned by the occupants of the premises and not kept for remuneration or hire.

**STORAGE VEHICLE** Any bus, van, travel trailer, semi-trailer, truck trailer, or mobile trailer of any kind used for non-vehicular storage purposes.

**STORY** That part of a building between the surface of one floor and the ceiling, or roof, above. A basement shall be considered a story; however, a cellar shall not be considered a story.

**STORY, HALF** The portion of a building located wholly or in part within a sloping roof and in which there is sufficient space to provide a height between finished floor and finished ceiling of at least seven feet, six inches over a floor area equal to at least fifty (50) percent of its floor area.

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

**SUBSTANTIAL DAMAGE** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The term includes structures which have incurred substantial damage, regardless of the actual repair work performed.

The term does not, however, include either ( 1 ) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the Building Inspector and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places, provided that the alteration will not preclude the structure's continued designation as a historic structure.

**TELECOMMUNICATIONS TOWER** A structure on which transmitting and/or receiving antenna(e) is located.

**TRAILER** A vehicle so constructed as to be suitable for attachment to a motor vehicle for the purpose of being drawn or propelled by the motor vehicle, and capable of being used for the temporary living, sleeping or eating accommodation of persons, notwithstanding that such vehicle is jacked up. A trailer is not a mobile home or a manufactured home.

**USE, PRINCIPAL** The primary purpose for which a lot is used.

**USE, SPECIAL PERMITTED** A use permitted by the Planning Board subject to the provisions of Article 8 of this law.

**USE VARIANCE** See Variance, Use

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

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

**VETERINARY HOSPITAL** A building or part thereof used by veterinarians primarily for the purposes of consultation, diagnosis and office treatment of household pets or livestock, but shall not include long-term boarding facilities for animals.

**WAREHOUSING** Terminal facilities for handling freight with or without maintenance facilities, and buildings used primarily for the storage of goods and materials.

**WELDING SHOP** An establishment where pieces of metal are welded.

**WHOLESALE FOOD PREPARATION** See Food Preparation, Wholesale

**YARD** An open area of land on the same lot with a principal building or structure and located between the main wall of the principal building and one of the lot lines.

**YARD, FRONT** That open area of a lot which extends across the full width of a lot between the front lot line and the nearest wall or supporting member of a building or structure. Where the front wall of an enclosed porch or veranda extends in front of such building or structure, the front wall shall be deemed to be the front wall of said porch or veranda.

**YARD, REAR** That open area of a lot which extends across the full width of a lot between the rear lot line and nearest wall or supporting member of a principal building or structure.

**YARD, SIDE** That open area of a lot which extends from the front yard to the rear yard of a lot between a side lot line and the nearest main wall of any building or structure on the lot. If there is no required front yard or rear yard, the side yard shall extend from the front lot line to the rear lot line.

**YARD SALE** The sale of personal property belonging to the occupants of the dwelling unit on which premises the sale is conducted. No more than three yard sales may be conducted on the same parcel in any one calendar year and not to exceed more than four days for each sale.

**ZONING BOARD OF APPEALS** A board appointed by the Town Board pursuant to Section 267 of the Town Law to hear and decide appeals of this law.

**ZONING PERMIT** A permit issued by the Code Enforcement Officer, prior to the issuance of a building permit, which certifies that a proposed structure or use meets all the regulations of this zoning law.

## **ARTICLE 3 ESTABLISHMENT OF ZONING DISTRICTS**

### **Section 3.1 Application of Regulations**

No building or land shall hereafter be used or occupied, and no building or part thereof shall be erected, moved, or altered, unless in conformity with the regulations herein specified for the district in which it is located.

### **Section 3.2 General Regulations**

3.2.1. Any uses not specifically permitted shall be deemed to be prohibited.

3.2.2. No building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of dwelling units, to occupy a greater percentage of lot area, or to have narrower or smaller rear yards, front yards or side yards than is specified herein for the district in which the building is located.

3.2.3. No part of a yard or other open space about any building required for the purpose of complying with the provision of this law shall be included as part of a yard or other open space similarly required for another building.

3.2.4. No lot, yard, setback, parking area or other space shall be so reduced in area, dimension or capacity as to make said area, dimension or capacity less than the minimum required under this law. If a lot, yard, setback, parking area, or other required space is less than the minimum required under this laws at the time of its adoption, said area, dimension or capacity shall not be further reduced.

3.2.5. The provisions of this law shall be held to be minimum requirements for the promotion of the public health, safety, and general welfare.

3.2.6. The final responsibility for the conforming of any building and use to the requirements of this law shall rest with the owner or owners of such building or use and the property on which it is located.

### **Section 3.3 Zoning Districts**

For the purpose of this law, the Town of Yorkshire is hereby divided into the following zoning districts:

AR - Agriculture Residential District  
HR - Hamlet Residential District  
HC - Hamlet Commercial District  
FO - Flood plain Overlay District  
I - Industrial District  
C - Commercial District  
MPD – Master Planned District

### **Section 3.4 Zoning Map**

Said zones are shown, defined and bounded on the map accompanying this law entitled "Zoning Map of the Town of Yorkshire," dated January 10, 2001 and filed in the office of the Town Clerk, which map and all explanatory matter thereon is by this reference incorporated into this law.

### **Section 3.5 Interpretation of Zone Boundaries**

3.5.1. Where uncertainty exists with respect to the boundaries of the various zones, as shown on the zoning map, the following rules shall apply:

a. Where the designation on the zoning map indicates a boundary approximately upon a road, the centerline of the road shall be construed to be the boundary.

b. Where the designation on the zoning map indicates a boundary approximately upon a lot line, such lot line shall be construed to be the boundary.

c. Distances shown on the zoning map are perpendicular distances from road centerlines measured to the zone boundary; boundaries in all cases where distances are given are parallel to the road centerline.

d. In other cases the zone boundary shall be determined by the use of the scale on the zoning map.

3.5.2. In the event that a metes-and-bounds description has been filed for a zone change or a variance as required by this law, such metes-and-bounds description may be used in lieu of other provisions of this section.

3.5.3. Where a zone boundary divides a lot of record at the time such boundary is adopted, the zone requirements of the least restrictive portion of such lot shall extend 40 feet into the more restrictive portion of the lot.

## ARTICLE 4 DISTRICT USE REGULATIONS

### Section 4.1 Agricultural Residential District

Purpose -The purpose of the Agricultural Residential District is to protect, preserve and promote agriculture and farming activities, while at the same time allowing rural single family housing. Recreation and tourist-oriented uses that are compatible with agricultural and residential uses are also appropriate and it is the intent of this section to encourage such uses.

#### 4.1.2. Permitted Uses

#### 4.1.3. Principal Permitted Uses

1. Agriculture
2. Cemeteries
3. Churches and other Places of Worship
4. Farm Stands
5. Forestry
6. Logging
7. Parks
8. Riding Stables
9. Single Family Dwellings
10. Veterinary Hospitals
11. Manufactured Homes
12. Kennels

#### 4.1.4. Permitted Accessory Uses and Structures

Accessory uses and structures that are customarily incidental and subordinate to any of the permitted principal uses listed in Section 4.1.3., and that are located on the same lot as the permitted principal use, shall be allowed. Such uses include, but are not limited to, the following:

1. Barns
2. Garages
3. Silos

#### 4.1.5. Special Permitted Uses

The following uses may be permitted in the Agricultural Residential District, provided that a Special Use Permit is approved by the Planning Board in conformance with the provisions of Article 8 of this law.

1. Accessory Apartments
2. Airstrips, Private
3. Art and Craft Studios



4. Bed and Breakfast Establishments
5. Bulk Storage
6. Campgrounds
7. Contracting Storage
8. Essential Services
9. Golf Courses
10. Major Home Occupations
11. Manufactured Home Community
12. Marine
13. Mobile Homes
14. Museum
15. Office, Accessory
16. Public and Semi-public Facility
17. Sawmill
18. Telecommunications Towers
19. Nursing Homes

#### 4.1.6. Yard, Area, and Other Dimensional Regulations

All principal permitted uses, permitted accessory uses, and special permitted uses must conform to the yard, area and other dimensional regulations that are specified in Article 5 of this law.

### **Section 4.2 Hamlet Residential District (HR)**

#### 4.2.1. Purpose

The purpose of the HR Hamlet Residential District is to protect and promote single family residential uses on a scale appropriate to the hamlet and to protect agricultural uses that currently exist within the hamlet. An additional purpose of this district is to encourage recreational uses that are compatible with single family and agricultural uses.

#### 4.2.2. Permitted Uses

#### 4.2.3. Permitted Principal Uses

1. Single family dwellings
2. Manufactured homes

#### 4.2.4. Permitted Accessory Uses and Structures

Accessory uses and structures that are customarily incidental and subordinate to any of the permitted principal uses listed in Section 4.2.3., and that are located on the same lot as the permitted principal use, shall be allowed. Such uses include, but are not limited to, the following:

1. Garages
2. Storage Buildings

#### 4.2.5. Special Permitted Uses

The following uses may be permitted in the HR Hamlet Residential District, provided that a Special Use Permit is approved by the Planning Board in conformance with the provisions of Article 8 of this law.

1. Accessory Apartments
2. Agriculture
3. Art and Craft Studios
4. Bed and Breakfast Establishments
5. Farm stands
6. Essential Services
7. Major Home Occupations
8. Multiple Family dwellings
9. Two-family dwellings
10. Cemeteries
11. Churches and other places of worship
12. Parks

#### 4.2.6. Yard, Area, and Other Dimensional Regulations

All permitted principal uses, permitted accessory uses, and special permitted uses must conform to the yard, area and other dimensional regulations that are specified in Article 5 of this law.

### **Section 4.3 Hamlet Commercial District (HC)**

#### 4.3.1. Purpose

The purpose of the HC Hamlet Commercial District is to allow retail, service and other commercial uses that serve the needs of the residents of Yorkshire and of visitors to the Town. An additional purpose is to allow higher density residential development.

#### 4.3.2. Permitted Uses

#### 4.3.3. Principal Permitted Uses

1. Banks and Financial Institutions
2. Bed and Breakfast Establishments
3. Day Care Facilities
4. Drug Stores
5. Grocery Stores
6. Hairdressing Establishments
7. Hotels and Motels
8. Libraries
9. Nursery Schools
10. Office Buildings, Large
11. Office Buildings, Small
12. Photographic Studios
13. Professional Offices

14. Public and Private Schools
15. Restaurants
16. Retail Sales and Service, Large
17. Retail Sales and Service, Small
18. Take-out Restaurants
19. Retail Sales and Service
20. Wholesale Food Preparation
21. Single Family Dwellings
22. Two Family Dwellings
23. Dwelling Units above first floor retail uses
24. Manufactured homes

#### 4.3.4. Permitted Accessory Uses and Structures

Accessory uses and structures that are customarily incidental and subordinate to any of the permitted principal uses listed in Section 4.3.3. and that are located on the same lot as the permitted principal use, shall be allowed.

#### 4.3.5. Special Permitted Uses

The following uses may be permitted in the HC Hamlet Commercial District, provided that a Special Use Permit is approved by the Planning Board in conformance with the provisions in Article 8 of this law.

1. Accessory Apartments
2. Automobile Body Shops
3. Automobile Gasoline Stations
4. Automobile Repair Shops
5. Automobile Sales Lots
6. Bars
7. Essential Services
8. Major Home Occupations
9. Multiple Family Dwellings
10. Welding Shops
11. Churches
12. Clubs
13. Nursing Homes

#### 4.3.6. Yard, Area, and Other Dimensional Regulations

All permitted principal uses, permitted accessory uses, and special permitted uses must conform to the yard, area and other dimensional regulations that are specified in Article 5 of this law.

## **Section 4.4 Flood Plain Overlay District (FO)**

### 4.4.1. Purpose

The purpose of the Flood Plain Overlay District is to protect the future health, safety, and welfare of the inhabitants of the Town of Yorkshire from hazards due to periodic or intermittent flooding. This shall include the protection of persons and property, the preservation of water quality and the minimizing of expenditures for relief, insurance and flood control projects. This does not imply that areas outside of the flood plain area or uses permitted within the flood plain area will be free from flooding or flood damage.

### 4.4.2. Applicability

The Flood Plain Overlay (FO) District shall apply to all areas designated as Zone A by the Federal Emergency Management Agency on the Flood Insurance Rate Maps dated May 25, 1984 for the Town of Yorkshire. These maps are an integral part of this zoning law and are hereby made a part of this law.

### 4.4.3. Permitted Uses

Principal permitted uses, accessory uses and special permitted uses shall be those designated in the underlying zoning district. Such uses, however, shall be subject to the restrictions contained in "Flood Damage Prevention Local Law Number 1 of the Town of Yorkshire", adopted on May 8, 1989, as amended.

### 4.4.4. Yard, Area, and Other Dimensional Regulations

All principal permitted uses, permitted accessory uses, and special permitted uses must conform to the yard, area and other dimensional regulations that are specified in Article 5 of this law.

## **Section 4.5 Industrial District**

### 4.5.1. Purpose

The purpose of the Industrial District is to provide a suitable area within the Town for manufacturing and production activities, research and development activities, and related offices and accessory uses on sufficient land area to permit efficient development. The District is designed to promote the development of a balanced employment mix and diversified tax base within the Town. The District shall be located in such a way that industrial use will neither encroach upon or otherwise damage surrounding uses nor will surrounding uses interfere with the efficient development and operation of said uses.

### 4.5.2. Permitted Uses

Principal permitted uses shall include but not limited to the following:

1. Manufacturing
2. Fabrication
3. Processing
4. Storage Warehousing
5. Wholesale Distribution

#### 4.5.3. Permitted Accessory Uses

1. Accessory uses and structures customarily incidental to permitted uses and located on the same lot.
2. Living quarters for caretaker or watchman
3. Retail sale of products manufactured or stored on the premises, occupying not more than fifteen percent of gross floor area of the principal structure.
4. Garage and storage buildings, which are necessary to store any vehicle, materials or equipment on the premises.
5. Incidental storage out of doors may be permitted provided that such materials are shielded from view from public streets.

#### 4.5.4. Special Permitted Uses

1. Adult Uses
2. Essential Services
3. Junkyards
4. Telecommunications Towers

#### 4.5.5. Yard, Area, and Other Dimensional Regulations

All principal permitted uses, permitted accessory uses, and special permitted uses must conform to the yard, area and other dimensional regulations that are specified in Article 5 of this law.

### **Section 4.6 Commercial District (C)**

#### 4.6.1. Purpose

The purpose of the C Commercial District is to allow retail, service and other commercial uses that serve the needs of the residents of Yorkshire and of visitors to the Town.

#### 4.6.2. Permitted Uses

#### 4.6.3. Principal Permitted Uses

1. Banks and Financial Institutions
2. Bed and Breakfast Establishments
3. Day Care Facilities
4. Drug Stores
5. Grocery Stores
6. Hairdressing Establishments
7. Hotels and Motels
8. Libraries
9. Nursery Schools
10. Office Buildings, Large
11. Office Buildings, Small
12. Photographic Studios
13. Professional Offices
14. Public and Private Schools

15. Restaurants
16. Retail Sales and Service, Large
17. Retail Sales and Service, Small
18. Take-out Restaurants
19. Retail Sales and Service
20. Wholesale Food Preparation
21. Single Family Dwellings
22. Two Family Dwellings
23. Dwelling Units above first floor retail uses

#### 4.6.4. Permitted Accessory Uses and Structures

Accessory uses and structures that are customarily incidental and subordinate to any of the permitted principal uses listed in Section 4.6.3. and that are located on the same lot as the permitted principal use, shall be allowed.

#### 4.6.5. Special Permitted Uses

The following uses may be permitted in the C Commercial District, provided that a Special Use Permit is approved by the Planning Board in conformance with the provisions in Article 8 of this law.

1. Accessory Apartments
2. Automobile Body Shops
3. Automobile Gasoline Stations
4. Automobile Repair Shops
5. Automobile Sales Lots
6. Bars
7. Essential Services
8. Major Home Occupations
9. Multiple Family Dwellings
10. Welding Shops
11. Churches
12. Clubs
13. Nursing Homes

#### 4.6.6. Yard, Area, and Other Dimensional Regulations

All permitted principal uses, permitted accessory uses, and special permitted uses must conform to the yard, area and other dimensional regulations that are specified in Article 5 of this law.

## Section 4.7 Planned Development District (P-D)

### 4.7.1 Purpose

The purpose of the Planned Development (P-D) District is to provide certain limited areas within the Town with flexible land use requirements.

1. The intent is to encourage the clustered development of mixed uses and mixed occupancy buildings in an integrated, controlled environment as may be seen in contrast to strip development scattered along rural highways; and to generate a balanced mix of productive land uses within each MPD District, and thereby improve the Town's employment and tax base.
2. The MPD District is designed as a planned unit development (PUD) for a full range of residential, commercial and /or industrial uses. Each PUD, or MPD District which is created by the Town shall follow a coordinated site layout, with specially controlled use, circulation and staging of development, provided that all such modifications of specific provisions of this ordinance will not be contrary to the intent and purpose of this ordinance or significantly inconsistent with the planning on which it is based, nor be harmful to the areas of the Town in which MPD Districts occur.
3. Each MPD District, once established, shall be organized and located in such a manner that it:
  - a. Permits a greater flexibility in the location of structures on the land. The intent is to encourage the conservation of space and to utilize topography and site features to best advantage.
  - b. Creates development areas which contain both individual building sites and common property and open space, all of which is planned and developed as a unit with buildings related to common area.
  - c. Encourages a mix of residential uses including clustering, in a manner that is compatible with, and separated from by means of buffers and architectural design, any adjacent commercial and manufacturing uses that may also be located within the MPD District.
  - d. Prevents encroachment on surrounding uses, and protects resident uses, inhabitants, employees and adjacent properties from the harmful effects of its own land use operations, and encourages the maintenance of high environmental quality throughout the MPD District.
  - e. Prevents surrounding uses from encroaching upon the MPD District, and protects the internal development and operations of the MPD District from outside congestion and interference.
  - f. Provides for a site specific location of special significance for each MPD District that is created.
4. To accomplish a successful mixed-development strategy, it is necessary in some cases to expand the scope of land planning and development beyond a concept of homogeneous use within formally defined districts and beyond a concept of individual lots with separate structures, to include the planning and development of larger areas with groups of structures erected thereon to create a diversified and coordinated entity. In this manner, topography, architectural techniques, existing infrastructure and other site features can be utilized to best advantage to obtain creative and successful designs which increase the Town's overall development potentials.
5. Procedures for Establishing a MPD District. This Article sets forth general standards for future zoning amendments which designate particular areas of the Town as Master Planned Development or MPD Districts, provided that said districts are consistent with the Town's adopted planning and development policies and its comprehensive planning process. A MPD District may be established in accordance with the following procedure.

- a. Application Procedure:
1. Application for establishment of a MPD District shall be made to the Town Board. The owners of a development area or agencies with jurisdiction may apply for the establishment of a MPD District for their specific site location, within which land and buildings may be used for any legal purpose and combination or mix of land uses. To be eligible for such consideration, a development area or site shall be five (5) acres or more in size and combine the proposed land uses into a unified design through a comprehensive Development Plan. A MPD District may be located entirely or in part within any zoning district.
  2. Said owners or agents of the proposed development areas shall submit to the Town Board, prior to the issuance of any Town permit or any construction start, three (3) copies of an application and Development Plan for the entire development area which is being proposed as a MPD District. Said Development Plan shall set forth the site layout, the specific mixture and configuration of land uses, traffic circulation systems, public utilities, design standards, performance standards, and requirements for restricting the height and bulk of buildings, the minimum size and frontage of each lot permitted by land use, the maximum density and coverage permitted, and minimum yard requirement.
- b. Planning Board Review:
1. The Town Board shall refer all such applications to the Planning Board for review as an application to amend the zoning ordinance. The Planning Board shall require the applicant to furnish such preliminary plans, drawings, and specifications as may be required for any understanding of the proposed development. The Planning Board shall review the Development Plan in accordance with the provisions of the adopted Planning and Development Policies. For purposes of this ordinance, the Development Plan shall encompass the MPD District in its entirety. The Planning Board review shall examine and incorporate into its approval the entire Development Plan.
  2. The Planning Board shall consider other concerns such as the need for the proposed use in the proposed location, the existing character of the neighborhood in which the use would be located, and the safeguards provided to minimize the possible detrimental effects of the proposed use on adjacent property. The Planning Board shall not approve any Development Plan for any use unless said use is consistent with the Town's adopted Planning and Development Policies and with its comprehensive planning process.
  3. The Planning Board shall approve such applications and its Development Plan with or without modifications, or disapprove such application and shall reports its decision to the Town Board within sixty two (62) days. The Planning Board's written report shall specify any conditions and restrictions recommended by the Planning Board as part of its approval of a proposed MPD District.
  4. The Planning Boards's approval of a proposed Development Plan is advisory in nature, subject to the Town's Board's action to create the MPD District on the basis of the Development Plan. Under this provision, only the Town Board is empowered to give final approval to the Development Plan and to establish a MPD District pursuant to the requirements of New York State Town Law for amending an existing zoning ordinance. The Town Board shall enact a separate zoning ordinance amendment for each specific MPD District which is created.



- c. Town Board Review:
1. The Town Board shall comply with all procedural requirements for a zoning amendment when creating a MPD District, and shall review and approve the applicant's Development Plan as a part of the zoning amendment. The Town Board shall hold a public hearing for each new MPD District or amendment thereto and render a decision within sixty two (62) days of the receipt of a favorable report from the Planning Board. The published notice for any public hearing which is scheduled to consider the creation of a MPD District under this Article shall state that the following items are available for public examination in the office of the Town Clerk, prior to the hearing and thereafter until such time as the Town Board shall act to approve or disapprove the creation of the proposed MPD District:
    - a. The Proposed Development Plan, with a list of all property ownerships within the MPD District (listed by name of owner, street name and tax map identifier).
    - b. A map of the proposed MPD District showing proposed use classification areas and property lines of all parcels of land included in such areas.
  2. The determination by the Town Board of whether or not to create a MPD District shall be based on the following considerations.
    - a. The application, and the specifications, Development Plan, and elevations filed by the applicant with the Town Board.
    - b. The Planning Board's approval of the Development Plan and its recommendations.
    - c. The Development Plan's consistency with the Town's planning and development policies and its comprehensive planning process.
    - d. The comments received at the public hearing.
    - e. The comments received from County, regional and State agencies as may be appropriate.
- d. Town Board Approval:
1. The Town Board may then approve the MPD District so as to define the boundaries of the Planned Unit Development accordingly, but such action shall have the effect only of granting permission for development of the specific proposed use in accordance with the specifications, plans and elevations filed with the Town Board, and as was reviewed by the Planning Board after the public hearing. Said zoning amendment shall reflect the same general level of detail as is contained in the text of Article 4, and as is shown on the official Zoning Map. Specific, more detailed project proposals shall be reviewed only after the creation of a MPD District by the Planning Board as they arise under the Site Plan Review procedure.
  2. The Town Board may, in order to protect the public health, safety, welfare and environmental quality of the community, attach to its zoning amendment and additional conditions or requirements consistent with the purposes and requirements of this Article for the applicant to meet. If such additional conditions or requirements are imposed, the applicant shall be given notice in writing of such additional conditions or requirements at least fifteen (15) days prior to the creation of the MPD District. The Town Board shall specify in the zoning amendment all final changes to, and final approval of, the applicant's Development Plan. Said zoning amendment establishes the MPD District and amends the Zoning Map. The Town Clerk shall certify all such amendments to the Zoning Map with appropriate notations.

- e. Applicability:
1. Such zoning amendment shall apply to all lands within the boundaries of the MPD District, provided that all such land, and the interests of owners thereof, shall have been purchased for, or otherwise firmly committed to, the new unified development contemplated by the Development Plan. The Town Board shall not approve a MPD District until all such necessary acquisition of land therein shall occur, or until such firm commitment shall be accepted.
  2. Upon enactment of the zoning amendment, all prior zoning requirements and procedures shall cease to be applicable and the new MPD District requirements and procedures of this Article and the approved Development Plan shall become applicable. The zoning amendment enacting a MPD District shall incorporate the final Development Plan by reference into this ordinance. Said Development Plan is the zoning law for that specific MPD District and shall carry the full force of the police power granted for zoning under New York State's enabling legislation. All uses and site and building arrangements within the MPD District shall comply fully with the provisions and maps of the approved Development Plan.
- f. Implementation:
1. After the Town Board approves the Development Plan and creates a MPD District, the applicant may take action to develop said District by submitting to the Planning Board a Site Plan application or applications for each specific project contemplated covering all or portions of the District intended for unified development under the Development Plan, in accordance with the following requirements:
    - a. Said applicant shall submit three (3) copies of each such application to the Planning Board prepared by a licensed engineer, surveyor, architect, or landscape architect, as appropriate.
    - b. The applicant for Site Plan review shall be the entity which is the principal owner of the proposed development area, or the designee of such entity. All of the land covered by each Site Plan application shall be owned, controlled or otherwise accepted by such principal owner or its designee.
    - c. Each application for Site Plan approval shall be accompanied by the information required for Site Plan review in accordance with Article 9 of this local law, and as is required in the approved Development Plan, including the necessary modifications or changes previously required by the Town Board upon its approval of the Development Plan. The Planning Board shall compare the Site Plan with the approved Development Plan for consistency.
    - d. Building and zoning permits shall not be issued for structures or land uses within a MPD District until site plan approval has been granted for such structures and land uses, and all such approvals shall be in accordance with the approved Development Plan for the entire district.
  2. If the owner of or an agent with jurisdiction over a MPD District does not take action to accomplish its approved Development Plan within five (5) years of the date said plan was approved by the Town Board, the Town Board shall take proposals under consideration to rezone the MPD District to other zoning classification which is consistent with the Town's comprehensive planning process. The submission and approval of a Development Plan, and the start of construction shall constitute such action to accomplish the approved Development Plan.
  3. There shall be no automatic reversion of land within a MPD District to former zoning classifications under any circumstances. Such an automatic procedure would contravene the New York State enabling laws which specify procedures for zoning amendments. Such a reversion of said land to former zoning classifications should such action be desirable, shall require a zoning amendment by the Town Board once the five (5) year waiting period has lapsed without any action being taken by the owner to accomplish the approved Development Plan.

## ARTICLE 5 YARD, AREA AND OTHER DIMENSIONAL REGULATIONS

### Section 5.1 Table of Dimensional Regulations

The Table of Dimensional Regulations, below, shows the minimum lot size, the minimum lot width, minimum yard requirements, and maximum building height for each land use district established in Article 4. This table is hereby declared to be an integral part of this law.

**Table of Dimensional Regulations**

District	Minimum Lot Size	Minimum Lot Width (feet)	Minimum Yard- Front (feet)	Minimum Yard- Side (feet)	Minimum Yard- Rear (feet)	Maximum Building Height (feet)	Maximum Building Height (stories)
AR	2.0 Acres(a)	250	50	20	50	35	2.5
HR	0.5 Acres	100	25	20	35	35	2.5
HC	0.5 Acres	75	25	10	25	45	3
FO	(b)						
I	2.0 Acres	250	40	40	45	45	3
C	2.0 Acres(a)	250 (a)	40	40	45	45	3
MPD	5.0 Acres(a)	na	na	na	na	na	na

(a) - Area may be reduced by 25% if a public water supply is available and by 50% if both a public water supply and a public sewage disposal system are available.

(b) - The minimum lot size, minimum lot width, minimum yard requirements, maximum building height and minimum frontage in the

FO Flood Overlay District shall be the same as those requirements in the underlying district in which the parcel is located.

na – not applicable

Key: AR = Agricultural Residential

HR = Hamlet Residential

HC = Hamlet Commercial

FO = Flood Plain Overlay

I = Industrial

C = Commercial

MPD = Master Planned Development

### Section 5.2 Height Exceptions

Nothing in this law shall be construed to restrict the height of a barn, a chimney, a church spire or steeple, a flag pole, electric transmission towers, television or radio antennae for individual use by a residence or a business, a silo, water tower, or a windmill, provided that such buildings and structures conform to all restrictions of other governmental authorities having jurisdiction.

Roof structures for the housing of necessary mechanical appurtenances for elevators, stairs, tanks, and ventilation equipment may be erected above the height limits herein prescribed, subject to obtaining a special use permit from the Planning Board.

### **Section 5.3 Minimum Frontage Requirement**

All lots shall have a minimum frontage, as shown in the Table of Dimensional Regulations, on a public right-of-way or on a private street that meets the design criteria for a public right-of-way.

### **Section 5.4 Measurement of Required Yards**

The minimum front yard for a parcel shall be determined by measuring at right angles from the street right-of-way line.

The rear and side yards shall be determined by measuring at right angles from the rear and side property lines, respectively.

### **Section 5.5 Projections into Required Yards**

The following encroachments into required yards are permitted:

1. Eaves, cornices, cantilevered roofs, or bay windows may project three feet into any yard.
2. Open and unenclosed porches, verandas, decks and steps may project six feet into the front and rear yards and three feet into side yards.

### **Section 5.6 Yards to be Open**

Where yards are required in this law, they shall be construed as permanently maintained open spaces. They shall not be less in depth, or width, or area than the minimum specified, and they shall be, at every point, open and unobstructed from the ground to the sky, except as specifically mentioned in these regulations.

### **Section 5.7 Corner Lots**

Whenever a side yard is adjacent to a street, both front and side yards shall be considered to be front yards and the standards for front yards shall apply.

### **Section 5.8 Through Lots**

In the case of a lot running through from one street to another street, the frontage on which the majority of the buildings in the block face shall be considered the primary frontage for the purposes of this law. In cases where there is no clearly defined frontage, the owner, when applying for a building permit, shall specify which lot line is considered the primary frontage. The rear portion of such lot shall, however, be treated as a front for purposes of determining required setbacks and locations of permitted structures and uses.

### **Section 5.9 One Principal Use Permitted Per Lot**

In all districts where single family dwellings are permitted, a lot held in single ownership may be developed for such use in accordance with the requirements of this article, provided that there shall be no more than one principal dwelling unit on each lot. If two or more single family dwelling units are proposed to be located on the same lot, the lot shall be subdivided and each new lot shall meet all the requirements of this law.

### **Section 5.10 Minimum size for single family dwellings**

All single family dwellings shall be a minimum of 24 feet in width and a minimum of seven hundred fifty (750) square feet in interior area.

### **Section 5.11 Building Separation**

All detached buildings on the same lot, such as a house and a garage, shall be separated by a minimum distance of five feet.

### **Section 5.12 Accessory Buildings and Structures**

5.12.1. No accessory building or structure may be located in a required front yard or a required side yard.

5.12.2. No accessory building or structure may be located closer to the rear lot line than the applicable side yard requirements. Where an accessory building is erected in the required rear yard on a corner lot, it shall not be located closer to any street than the required front yard distance.

5.12.3. No accessory building may exceed 25 feet in height.

5.12.4. Notwithstanding any other provision of this law, clothesline poles, flag poles, garden trellises, fences and retaining walls shall be exempt from any setback requirements.

## **ARTICLE 6 DEVELOPMENT STANDARDS**

### **Section 6.1 Accessory Apartments**

6.1.1. There shall be no more than one (1) accessory apartment per lot.

6.1.2. The applicant must show that the existing sewage disposal system and water supply are adequate to support the accessory apartment.

6.1.3. The applicant must show that there is adequate off-street parking for the occupants of the accessory apartment, in addition to the parking required for the primary residence.

6.1.4. The minimum floor area for an accessory apartment within a principal dwelling unit shall be three hundred (300) square feet, but in no case shall it exceed twenty-five percent (25%) of the original area of the principal dwelling unit, unless, in the opinion of the Planning Board, a greater floor area is warranted by the specific circumstances of the particular building.

6.1.5. If an accessory apartment is located in the principal dwelling unit, the entry to such unit and its design shall be such that, to the degree feasible, the appearance of the building will remain that of a single family dwelling.

### **Section 6.2 Arts and Craft Studios**

6.2.1. An arts and craft studio may be located either within a single family dwelling or in a building accessory to a single family dwelling, but it must be used by one or more residents of the single family dwelling.

6.2.2. Retail sales of the work of the artists/craftspeople in residence on the lot shall be allowed.

6.2.3. Signs: A single identification sign not to exceed twelve (12) square feet in area or six (6) feet in height may be erected.

### **Section 6.3 Bed and Breakfast Establishments**

6.3.1. The dwelling in which the Bed and Breakfast operates may or may not be the principal residence of the operating owner.

6.3.2. A single identification sign not to exceed twelve (12) square feet in area or six (6) feet in height may be erected on the wall of the building.

### **Section 6.4 Farm Stands**

6.4.1. Farm stands shall be one story, not to exceed fifteen feet in height.

6.4.2. Farm stands may be located in the required front yard, but they shall be set back from the right-of-way such that customers have space to park off the road right of way.

6.4.3. One sign, not to exceed twelve (12) square feet, shall be allowed.

6.4.4. Only agricultural products may be sold at the farm stand.

## **Section 6.5 Home Occupations**

### 6.5.1. Minor Home Occupations

6.5.1. (a) Minor Home Occupations are allowed as-of-right, provided that they meet the following conditions:

1. A home occupation shall be accessory and incidental to the use of a dwelling for residential purposes.
2. No one other than the residents of the dwelling unit shall be engaged in the home occupation.
3. No more than five hundred (500) square feet of the floor area of the dwelling unit may be used in connection with a home occupation or for storage purposes in connection with a home occupation.
4. There shall be no exterior storage of materials to be used in conjunction with a home occupation.
5. There shall be no signs posted on the dwelling or in the yard. No alteration of the residential appearance of the dwelling shall be allowed. Creation of a separate entrance to the dwelling or utilization of an existing entrance exclusively for the use of the home occupation is allowed.
6. No on-site sales of goods or services shall be allowed, except that orders previously made by telephone or at a sales party may be filled on the premises. That is, direct sales of products off display shelves or racks is not allowed, but a person may pick up an order placed earlier as described herein.
7. A minor home occupation shall not create any additional vehicular or pedestrian traffic to the dwelling.
8. Up to two (2) home occupations per dwelling unit shall be permitted.

6.5.1. (b) Permitted minor home occupations include, but are not necessarily limited to, the following, provided they meet the criteria listed in Section 6.5.1.(a).

1. Offices for authors and composers.
2. Office facility of a salesman, sales representative, or manufacturer's representative, provided that no transactions are made in person on the premises.
3. Tutoring of not more than one student at a time. Home schooling of children of the immediate family is excluded.
4. Instruction in a musical instrument for not more than one student at a time.
5. Direct sale product distribution.
6. Word processing services.
7. Dog grooming

## 6.5.2. Major Home Occupations

6.5.2. (a) Major Home Occupations are allowed, provided that a special use permit is granted by the Planning Board in conformance with the requirements in Article 8. Before the Planning Board may grant a special use permit, it shall determine that the proposed home occupation meets the following criteria:

1. A home occupation shall be accessory and incidental to the use of a dwelling unit primarily for residential purposes.
2. No more than one employee, in addition to the resident or residents of the dwelling, may be engaged in a major home occupation.
3. No more than six hundred (600) square feet of the floor area of the dwelling unit may be used in connection with a home occupation or for storage purposes in connection with a home occupation.
4. No alteration of the residential appearance of the dwelling shall be allowed. Creation of a separate entrance to the dwelling or utilization of an existing entrance exclusively for the use of the home occupation is allowed.
5. Up to two (2) home occupations per dwelling unit shall be permitted.
6. The Planning Board shall find that the proposed use is compatible with residential uses, does not detract from the residential character of the neighborhood, does not pose a safety hazard, and does not create a traffic problem in the area.
7. No retail sales shall be allowed on the premises, except that incidental retail sales may be made in connection with other permitted home occupations. For example, a beauty parlor may be allowed to sell combs, hair spray and other miscellaneous items to customers.
8. There shall be no exterior storage of materials to be used in conjunction with a home occupation.
9. A home occupation shall produce no offensive noise, vibration, smoke, electrical interference, dust, odors, or heat.
10. A home occupation shall be completely enclosed in the principal dwelling or an accessory building.
11. All parking necessary for the home occupation shall be provided on-site, not on the street, and shall not be allowed in the required front yard.
12. One unilluminated sign, not to exceed six (6) square feet in area, may be permitted.

6.5.2. (b): Major Home occupations include, but are not limited to the following uses:

1. Offices for accountants and tax preparers
2. Hairdressing establishments
3. Dressmaking, sewing and tailoring, provided that the dressmaker does only custom work for specific clients, and does not sell clothes to the general public at the residence.
4. Small appliance repair



## 5. Upholstering

### 6.5.3. Uses Prohibited as Home Occupations

The following uses, by nature of the scale and intensity of the activity, are more suited to a commercial district and shall not be permitted as home occupations, either major or minor:

1. Automobile body repair work, including painting of automobiles
2. Medical and dental offices
3. Funeral Homes
4. Welding or machine shops
5. Veterinary services, including care and boarding

### **Section 6.6 Keeping of Large Animals in the Hamlet of Yorkshire**

Horses, donkeys, ponies, mules, ostriches, and emus may be kept in the HR Hamlet Residential District and in the HC Hamlet Commercial District on a lot where the principal use is residential, provided that the following conditions are met:

1. The lot must be a minimum of one acre in size to keep one animal. An additional 5,000 square feet of lot area shall be required for each additional animal.
2. Any stable or corral shall be set back a minimum of fifty (50) feet from the front property line and twenty-five (25) feet from the side and rear property lines. In addition, such stable or corral shall be built a minimum of fifty (50) feet from any pre-existing dwelling on an adjacent lot.
3. The animal or animals must be kept in a stable, not in a residential garage.

### **Section 6.7 Noise and Vibration**

#### 6.7.1. Noise

Noise levels from any use shall not exceed 90 decibels [dB(A)], measured at the boundaries of the lot occupied by the use causing the noise.

#### 6.7.2. Vibration

Uses that cause vibrations that are perceptible, without instruments, beyond any lot line of the premises on which the use is located, are prohibited.

### **Section 6.8 Parking, Driveways, and Drive through-Windows**

#### 6.8.1. Off-Street Parking Requirements

The minimum number of parking spaces for all land use activities shall be provided according to the following schedule:

1. Single Family Dwelling Unit: 2 spaces per unit

2. Two-family Dwelling Unit: 2 spaces per unit
3. Multiple Family Dwellings: 1.5 spaces per one-bedroom unit  
2 spaces per two-bedroom unit  
2.5 spaces per three-bedroom unit or greater
4. Bed and Breakfast Establishments: 1 space per guest room plus 1 for the owner/operator
5. Hotel/Motel: 1 space per guest room, plus 1 space for every three employees.
6. Retail Stores, Repair Shops, Personal Service Establishment: 1 space per 300 square feet of gross floor area
7. Churches, Places of Worship, Theaters, Places of Assembly: 1 space per every four seats
8. Restaurants, Bars: 1 space for every 3 seats
9. Restaurant, take-out: 1 space per 300 square feet of gross floor area
10. Offices: 1 space per 300 square feet of gross floor area
11. Clubs: 1 space for each 4 persons allowed under the maximum occupancy load.
12. Nursery School / Day Care Center: 1 space per employee, plus 2 additional

#### 6.8.2 Drive-Through Windows

Stacking space for a minimum of three vehicles shall be provided in the case of a drive thru bank window. Stacking space for a minimum of six vehicles shall be provided for a fast-food drive thru restaurant window. Such spaces shall be designed so as not to impede pedestrian or vehicular circulation on the site or on any abutting street. Each stacking space shall be a minimum of 20 feet long.

#### 6.8.3. Driveway Regulations for Parking Areas

1. Driveways used for ingress and egress to parking areas shall be clearly visible. Driveways that cross sidewalks shall be constructed at a 90 degree angle to the street in order to protect pedestrian safety.
2. Driveways shall not be located closer than 20 feet to an intersection of two public rights-of-way.
3. The minimum width of a driveway that provides both ingress and egress shall be 20 feet. The maximum width of a driveway shall not exceed 35 feet.
4. No more than two driveways entering on one street from a single commercial establishment shall be permitted.
5. Shared driveways for abutting establishments shall be encouraged.

### **Section 6.9 Satellite Dish Antennas**

Satellite dish antennas shall be permitted as an accessory use in all districts. All satellite dish antennas shall comply with all the accessory use yard, height, bulk, and setback requirements, specified in Article 5, for the district in which it is located.

## **Section 6.10 Signs**

### 6.10.1. Intent

The intent of these sign regulations is to encourage the effective use of signs as a means of communication in the Town, to maintain and enhance the aesthetic environment, to maintain and enhance the Town's ability to attract sources of economic development and growth, to improve pedestrian and traffic safety, and to minimize the possible adverse effect of signs on nearby public and private property.

### 6.10.2. General Standards

1. Except as hereinafter provided, no person shall erect, alter, construct, relocate or cause to be erected, altered, constructed or relocated any sign without first having obtained a Sign Permit issued by the Code Enforcement Officer in conformance with the requirements of this law.
2. A sign, except signs erected by a governmental entity for a public purpose, shall not be attached directly or indirectly to any light standard, traffic control structure, utility pole, or tree.
3. All site plans approved by the Planning Board shall include a coordinated plan for the location and size of all signs for the entire project area.
4. No sign shall be placed in or project into the public right-of-way.

### 6.10.3. Exempt Signs

The following signs shall be allowed in all districts without first obtaining a sign permit.

1. Any sign posted by duly constituted public authorities in the performance of their public duties are exempt from regulation under this Section.
2. Temporary "For Sale" or "For Lease" signs relating to the premises on which they are posted. The sign shall contain only the name, address, business logo and telephone number of the owner or his authorized agent, or both. The sign shall not exceed 6 square feet in area. Only one such sign shall be permitted for each street frontage and it may not be illuminated.
3. Temporary signs in a commercial district that advertise any special sale. The sign shall not be erected more than 4 days prior to the sale and must be removed within 3 days after the sale. One such sign is allowed per establishment.
4. New business enterprises, which are waiting erection of permanent signs, may install temporary signs, not exceeding 25 square feet in area, for a period not to exceed 30 days.
5. A duly authorized major home occupation may post one sign, not to exceed six square feet in area, on the wall of the building in which the home occupation is carried out.
6. For a residence, one sign indicating the name and address of the occupant of the premises, not to exceed one square foot in area. Such sign shall not project above a roof line. It may be mounted on the building wall or pole mounted. An address sign shall not be permitted if the premises contains a sign for a home occupation.

7. For new construction or renovation, one sign indicating the project name and the names of the architect, engineer, contractor and participating public and governmental agencies, placed on the site where construction is in progress. Such sign shall not exceed 25 square feet in area and 10 feet in height. The sign shall be removed within 30 days of the completion of the construction, repair or renovation work.

8. Political Signs: Signs advertising a candidate for political office, or signs advertising any other ballot issue, must be removed seven (7) days after the election.

9. "Posted" Signs: In open areas "posted" signs shall be placed such that there is a minimum of six hundred (600) feet between signs. In wooded areas "posted" signs shall be placed so that only one such sign is visible from any other sign.

#### 6.10.4. Signs Requiring Sign Permits

1. In the HC Hamlet Commercial District or C Commercial District establishments shall be permitted to erect one wall sign for the purpose of permanent advertising. The area for any single business enterprise shall be limited according to the frontage width of the building occupied by such enterprise. In computing maximum size, each business enterprise may have a permanent sign of an area equivalent to one and one-half square feet of sign area for each lineal foot of frontage width occupied, but in no case shall it exceed a maximum area of 32 square feet.

A freestanding pole sign not over 10 feet in height and not in excess of 32 square feet in sign area may also be permitted for each business providing that:

- (a) No part of such sign shall project into or over any public right-of-way.
- (b) The pole support of such sign shall not be less than 40 feet from any lot in any residential district.
- (c) Only one freestanding sign per parcel shall be permitted. If more than one commercial establishment is located on a lot, they shall share the advertising area on one freestanding sign.

2. Commercial uses in a residential or agricultural-residential district may erect one wall sign. The size of the wall sign shall be computed according to the formula used in 6.10.4. (1). In no case shall the sign exceed 32 square feet in area.

A freestanding sign for a commercial use in a residential or agricultural-residential district shall be subject to obtaining a special use permit from the Planning Board. In no case shall such freestanding sign exceed 4 feet in height and 32 square feet in area or be illuminated.

3. Subdivision Sign. One permanent identification sign may be allowed at the entrance to a permitted subdivision, provided that the sign does not exceed 32 square feet in area and 4 feet in height. The sign may indicate only the name of the subdivision, and the sign may not be illuminated

#### 6.10.5. Prohibited Signs

The following signs shall be prohibited in all districts:

- 1. Off-premises signs
- 2. Roof signs

### **Section 6.11 Private Swimming Pools**

Privately owned swimming pools shall be a permitted accessory use to a residential use in any district. They shall comply with the following:

1. The pool is intended and used for the enjoyment of the occupants of the residence and their guests, without charge and without purpose of profit.
2. An outdoor swimming pool shall be permitted in a required side or rear yard, provided that the pool shall be set back a minimum of fifteen (15) feet from the side and rear lot lines.
3. The entire area of an in-ground pool shall be enclosed by a fence that is a minimum of four feet high.

### **Section 6.13 Trailers**

A trailer, as defined in Article 2, may be used temporarily for living quarters provided that it meets the following conditions:

1. One trailer is allowed on each single-family lot, provided that the lot does not already contain a single-family home.
2. The owner/occupant will obtain a trailer permit from the Building Inspector. The Building Inspector shall insure that the trailer has adequate water and sewage disposal facilities. The permit must be renewed annually.
3. The trailer may remain on the lot for a total of six months in any one calendar year. Otherwise, the trailer must be taken off the lot.
4. Individual recreation or travel trailers owned by residents of the Town may be stored on the property of the owner, adjacent to an existing single family home, for an unlimited period, provided that no residence is taken therein or business conducted therewith.

## **ARTICLE 7 SUPPLEMENTARY REGULATIONS**

### **Section 7.1 Telecommunications Towers**

#### **7.1.1. Application Materials**

All applicants for a Special Use Permit for the construction of a telecommunications tower in the Town of Yorkshire shall submit the following:

1. A report from a professional engineer which shall:
  - a. Describe the tower and the technical, economic and other reasons for the tower design
  - b. State that the tower is structurally sound
  - c. Describe how many and what kinds of antenna(e) are proposed
  - d. Describe how many and what kind of antenna(e) are possible on the tower
  - e. Demonstrate that the site can contain on-site substantially all ice-fall or debris from tower failure
2. A copy of the applicant's Federal Communications Commission (FCC) license, including any requirements from the Federal Aviation Administration (FAA).
3. A letter of intent committing the tower owner to negotiate in good faith for shared use by third parties in the future. This letter, which shall be filed with the Building Inspector prior to the issuance of a building permit (assuming the telecommunications tower is approved), shall commit the tower owner and his or her successors in interest to:
  - a. Respond in a timely, comprehensive manner to a request for information from a potential shared-use applicant.
  - b. Negotiate in good faith for shared use by third parties.
  - c. Allow shared use if an applicant agrees in writing to pay charges.
  - d. Take no more than a reasonable charge for shared use, based on generally accepted accounting principles. The charge may include, but is not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance, financing, return on equity, and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
4. The reports and evaluations required in Section 7.1.2, Shared Use and Section 7.1.3, Use of Existing Buildings.
5. A Full Environmental Assessment Form (EAF) and the Visual Addendum to the EAF. The Planning Board may require submittal of a detailed visual analysis based on the results of the Visual Addendum.
6. A site plan, as defined in Article 2 of this law.

7. Any other material that the Planning Board deems necessary to evaluate the application.

Any permit granted under this section shall be valid only for the number and type of antennas in the approval. Any increase in number or change in type of antenna(e) on any existing tower must be approved by the Planning Board.

#### 7.1.2. Shared Use

1. At all times, shared use of existing towers shall be preferred to the construction of new towers.
2. An applicant shall be required to present an adequate report inventorying existing towers, and approved, but unbuilt towers, within a reasonable distance of the proposed site. If an appropriate communications tower or towers is available, the applicant shall submit a written evaluation of the feasibility of sharing such tower. The evaluation shall analyze, but is not limited to, the following factors:
  - a. Structural capacity of the tower or towers
  - b. Radio frequency interference
  - c. Geographic service area requirements
  - d. Mechanical or electrical incompatibilities
  - e. Inability or ability to locate equipment on the tower or towers
  - f. Cost, if fees and costs for sharing would exceed the cost of a new communication tower over a 25-year period, and
  - g. Any restriction or limitations of the Federal Communications Commission that would preclude the shared use of the tower.

A telecommunications tower that is determined to be inappropriate for sharing shall be assumed to be inappropriate for sharing the same types of facilities in the future. Such towers will not need to be evaluated in the future regarding sharing with the same type of facility for which it has been determined to be inappropriate. The Town shall maintain a list of such towers, and shall provide such list to all applicants or potential applicants for a Special Use Permit for a telecommunications tower.

3. An applicant shall not be required to share use of an existing telecommunications tower if the cost is unreasonable. Those costs include, but are not limited to, structural reinforcement of the existing tower, preventing transmission or receiver interference, additional site screening, and other charges including real property acquisition of a lease required to accommodate shared use. Costs associated with this subsection shall be considered unreasonable if they exceed the cost of the proposed new use at a new and separate location, over a 25 year period.
4. The applicant shall be required to submit a report demonstrating a good-faith efforts to secure shared use of an appropriate existing communication tower. Written requests and responses for shared use shall be provided.

#### 7.1.3. Use of Existing Buildings

1. The use of suitable existing buildings and structures shall be encouraged over the construction of new towers, wherever feasible.
2. The applicant shall prepare an inventory of buildings and structures in the cell search area to determine if any may be suitable to accommodate the antenna(e). If suitable structures are located, the applicant

shall enter into good faith negotiations with the building owner to secure rights to place one or more antennae on such structures.

3. The applicant shall be required to submit a report demonstrating a good-faith effort to secure shared use of the existing building or structure. Written requests and responses shall be provided.

4. An applicant shall not be required to use an existing building or structure if the cost is unreasonable. Costs associated with this subsection shall be considered to be unreasonable if they exceed the cost of the proposed new use at a new and separate location, over a 25 year period.

#### 7.1.4. Setbacks

Towers and antenna(e) shall comply with all existing setbacks within the zoning district in which they are sited. Additional setbacks may be required by the Planning Board to contain on-site substantially all ice-fall or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Setbacks shall apply to all tower parts, including guy wire anchors, and to any accessory facilities.

#### 7.1.5. Visibility

1. All towers and accessory facilities shall be sited to have the least practical adverse effect on the environment.

2. Placement of the antenna(e) or tower on a suitable existing structure, such as a church steeple, water tower, or silo is encouraged, whenever feasible.

3. Towers shall not be artificially lighted, except as required by the Federal Aviation Administration (FAA).

4. Towers shall be a galvanized finish or painted gray or silver above the surrounding treeline and painted gray, green or black or other neutral color below the surrounding treeline, unless other standards are required by the FAA. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.

5. Existing on-site vegetation shall be preserved to the maximum extent possible. 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.

6. No portion of any tower may be used for signs or advertising purposes, including the company name, banners, streamers, etc.

7. The applicant shall demonstrate that proposed height for the tower and antenna(e) is the minimum necessary to function satisfactorily. No tower or antenna(e) that is taller than this minimum height shall be approved.

#### 7.1.6. Screening

1. The Planning Board may require fencing around the tower and any associated building. The fence shall be a minimum of eight feet in height.

2. Landscaping shall be planted on the outside of the fencing. The landscaping may be installed on the inside of the fencing, subject to the approval of the Planning Board, if the survivability or utility of



landscaping on the exterior of the fencing is questionable.

3. The Planning Board may require evergreen hedges or other planting strips as necessary to screen portions of the facility. Installation of new plantings will not be required in those places where the presence of existing vegetation or structures is sufficient to screen the tower and accessory buildings, or in cases where the proposed landscaping would not be visible.

#### 7.1.7. Removal of Obsolete Facilities

1. All obsolete and unused telecommunication towers shall be removed within 12 months of cessation of use.

2. The owner of the telecommunication tower shall annually file a declaration with the Town Board of the Town of Yorkshire as to the continuing operation of every facility installed subject to this Law.

3. The Planning Board may require, as a condition of approval of the Special Use Permit, that the applicant post a bond with the Town, sufficient to allow the Town to have the unused tower removed, if the owner fails to do so within the prescribed time period.

### **Section 7.2 Individual Manufactured Homes**

#### 7.2.1. Individual Manufactured Homes Not Located in Manufactured Home Communities

Size and Age of Manufactured Home : No manufactured home shall have less than seven hundred fifty (750) square feet of floor space which must be part of the original manufactured unit, exclusive of additions and appurtenances.

1. In the event a home was manufactured prior to 1974, an application for a special exemption permit must be filed.

2. Applications for special exemption permits shall contain the size, copy of the bill of sale, serial number and description to confirm year and ownership, plus a photograph of the home.

3. If all other conditions set forth in this local law are met together with the requirements of Local Law 1-1986 providing for the Administration and Enforcement of the New York State Fire Prevention and Building Code, and the special exemption permit will be reviewed by the Building Inspector and Town Board, or other body appointed by the Town Board for approval or denial.

7.2.2. Sewage Disposal each individual manufactured home shall be connected to a sewage disposal system approved by the Cattaraugus County Department of Health meeting regulations of the New York State Department of Health.

#### 7.2.3. Moving or Replacing Manufactured Homes

1. An existing manufactured home may be replaced by one of equal size or better quality provided it conforms with the regulations set forth in this article.

2. If a site containing a manufactured home is vacated for a period of longer than twelve (12) months, the owner of such site shall not permit a manufactured home to be placed thereon unless the provisions of this article have been complied with.

#### 7.2.4. Foundation

Every manufactured home shall be placed on a permanent continuous perimeter wall with anchorage Approved by the home manufacturer and State Building Code or a full 6” minimum thickness, haunched concrete slab with continuous 8” block perimeter walls.

7.2.5. No manufactured home shall become occupied until the Building Inspector has made an inspection and certified to the Town Board that all conditions, laws, rules and regulations have been complied with. No occupancy shall be permitted until the Building Inspector issues a Certificate of Occupancy.

### **Section 7.3. Manufactured Home Communities**

7.3.1. It shall be unlawful to establish a Manufactured Home Community without securing a written permit from the Building Inspector after review by the Planning Board and after complying with the provisions of this section.

1. The application for a permit shall be made on forms prescribed by the Town Board and shall include the name and address of the owner in fee of the tract (if the fee is vested in some other person other than the applicant, a duly verified statement by the person that the applicant is authorized by him to construct or maintain the Manufactured Home Community shall accompany the application together with a verified statement indicating the name and address of the person or persons who will be responsible for the management of the Manufactured Home Community).

2. Any applicant for a Manufactured Home Community permit shall state that he as agent or owner, shall be responsible for the proper maintenance and upkeep of the proposed Community.

7.3.2. The initial application shall be accompanied by five sets of plans and specifications drawn to scale showing the layout of the Community, the location, the size and arrangement of each lot, location of streets, water and sewage services. The plan shall comply with all existing local laws and the rules and regulations of the Cattaraugus County Health Department and the New York State Departments of Health and Environmental Conservation.

7.3.3. It will be the responsibility of the Planning Board to inform the Town Board in writing of proposed plans for a Manufactured Home Community. The application for a Building Permit will be reviewed at the next regularly scheduled Town Board meeting. The Town Board will review the application for a proposed Manufactured Home Community and will determine by vote if a public hearing shall be held. The applicant must advertise notice of the public hearing in the official Town newspaper once each week for two (2) consecutive weeks prior to the date of the hearing and the notice shall state where and when the Town Board shall consider the application, the name of the applicant and the proposed location of the Manufactured Home Community.

#### 7.3.4. Manufactured Home Community Plan

1. A Manufactured Home Community shall have an area of not less than ten (10) acres and no manufactured home lot or office or service building shall be closer to the center line of a public road than one hundred (100)feet and shall be twenty (20) feet from property lines.

2. A Manufactured Home Community shall be located on a well drained site suitable for the purpose with an adequate entrance road with at least a fifty foot right of way leading to the mobile home lots.

3. Individual manufactured home sites shall have an area of not less than 6000 square feet, with a minimum width of 60 feet and a minimum depth of 100 feet.

4. No manufactured home or portion thereof shall be placed closer than ten (10) feet from any adjoining lot line. This includes its awning, any addition to the home or utility building.
5. Any manufactured home placed in a community shall meet the requirements of paragraph 7.2.1 above.
6. The total number of manufactured home sites shall not exceed six (6) per acre.
7. Sight and sound protective landscaping may be required along property lines and the determination of the necessity therefor shall be left to the discretion of the Planning Board. Such requirements shall depend upon the location of the site and the nature of adjoining properties.
8. Changes in the Manufactured Home Community plan shall be submitted to the Building Inspector for his approval, the Planning Board for their review and the Town Board for Final Approval.

#### 7.3.5. Water Supply

Water and water service shall be provided in accordance with the requirements of the New York State and Cattaraugus County Departments of Health.

#### 7.3.6. Sewage Disposal

The sewage disposal system shall be subject to the approval of the New York State Department of Health, Cattaraugus County Department of Health or New York State Department of Environmental Conservation whichever agency has jurisdiction over the size of the system.

#### 7.3.7. Garbage and Trash Disposal

Individual trash pickup will be included in the rental at a minimum of one pickup per site per week. Weekly trash will be kept in fly and animal proof containers. Refuse will also be part of said weekly service.

#### 7.3.8. Skirting

Each manufactured home in the community shall be skirted in an attractive manner with fire resistant material. Skirting, banking or insulating with highly combustible materials is prohibited.

#### 7.3.9. Additions

No addition to a manufactured home shall be constructed which would increase the liveable floor space of that mobile home without the Community owner's consent and application for a Town building permit. Additions intended to provide storage space, shade or protection from weather may be made only with the approval of the Community owner.

#### 7.3.10. Registration of Occupants

1. The owner or operator of each Manufactured Home Community shall keep a record in writing of all persons occupying or using the facilities of the Community available for inspection at any time by the Building Inspector or persons authorized by the Town Board. Records shall be kept on file in the office of the manager of the Community.
2. Name and permanent identifying address of the occupant, manufacturer's serial number, description and identification number is required on each manufactured home. Each manufactured home lot shall carry an identification number visible from the access driveway. Streets or roads within the Manufactured Home Community shall be named or otherwise designated for identification with standard street signs erected.

#### 7.3.11. Inspection

1. Any peace officer, enforcement officer, health officer or other authorized representative of the Town

of Yorkshire shall have the right, at all reasonable times, to enter any Manufactured Home Community and shall have the right to inspect all parts of said community, with the exception of the individual manufactured homes located therein, and to inspect the records required to be kept in any Manufactured Home Community in compliance with this local law.

2. No new Manufactured Home Community shall become occupied until the Building Inspector has made an inspection and certified to the Town Board that all conditions, laws, rules and regulations have been complied with. No occupancy shall be permitted until the Building Inspector issues a Certificate of Occupancy.

#### 7.3.12. Fire Protection

Every Manufactured Home Community shall have a fire protection plan approved by the Fire Department having local jurisdiction.

#### 7.3.13. Service Roadways

Service roadways shall be of all weather construction, surfaced at a minimum, with gravel at least 20 feet in width and each mobile home lot shall have a driveway not less than 20 foot in width also surfaced with gravel.

#### 7.3.14. Exceptions

1. None of the provisions of this Article shall be applicable to the business of storage and display of unoccupied manufactured homes or travel trailers which are available for sale to the general public.

2. None of the provisions of this Article shall be applicable to any manufactured home or travel trailer located on the site of a construction project, survey project or other similar work project and used solely as a field office or work or tool house in connection with such project, provided such manufactured home or travel trailer is removed from said site within sixty (60) days after completion of such project.

### **Section 7.4 Junkyards**

Where permitted in Article 4 of this local law as a special use with Planning Board approval, all junkyards shall conform to the following requirements:

1. A minimum of five (5) acres is required to establish a junkyard.
2. The permittee must personally manage or be responsible for the management of the activity or business for which the is granted.
3. The permittee must maintain an office and a sufficient number of employees on the premises to assure the proper and safe conduct of such activity or business, to minimize the fire hazard therefrom and to prevent improper trespass thereon by unauthorized persons.
4. The permittee must erect and maintain in good condition a solid eight (8) foot perimeter fence of wood or other acceptable material (tires are unacceptable) adequate to prohibit the entrance of children and others into the area of the activity or business and to contain within such fence the materials dealt in by the permittee, and if such area abuts a residential area or public street or highway, such fence shall be at least fifty (50) feet from the boundary line or right-of-way thereof. All materials dealt in by the permittee shall be kept within such fence at all times.
5. When the area is not supervised by the permittee or his employees, the fence shall be locked at a secure gate in a secure manner.

6. The area of the permittee's activity or business shall not be used as a dump area or as a place for the burning and disposal of junk or trash.
7. The Town Board or any of its representatives shall be granted access to the area of the activity or business of the permittee at all reasonable hours to inspect the same for compliance with these regulations.
8. Open fires are prohibited. Requests for special burning permits may be made to the New York State Department of Environmental Conservation.
9. The automobiles, parts and materials dealt with by the permittee shall be disassembled or dismantled by means other than by burning. They shall be piled less than seven (7) feet high and arranged in neat rows so as to permit easy, clear passage through the area.
10. There shall be maintained at each such place of activity or business at least one (1) fire extinguisher of approved design and capacity for each 40,000 square feet of area. Each such fire extinguisher shall be hung or mounted in a conspicuous place, clearly marked and available.
11. The permittee must produce all required New York State permits, which are applicable to his operation, with his application.

### **Section 7.5 Flood Protection**

In all areas of special flood hazards the following local law should be adhered to: Flood Damage Prevention Local Law of the Town of Yorkshire, adopted May 11, 1987, as amended on May 8, 1989.

### **Section 7.6 Disposal of Hazardous Waste**

1. No person shall construct, operate and/or establish a facility for the internment, storage, temporary storage, recycling and/or processing of hazardous waste within the Town of Yorkshire.
2. Hazardous wastes shall be those wastes identified and defined by Title 40 of the Code of Federal Regulations, Part 261, and any future modifications or amendments of Title 40, Part 261 shall become a part of this local law. Title 40 of the Code of Federal Regulations, Part 261 is adopted by the Town Board and incorporated herein by reference as if fully set out at length. A copy of said Title and Part as published in the Federal Register Vol. 45, No. 98, dated Monday, May 19, 1980, and being pages 33119 through 33133 are now filed in the office of the Town Clerk.
3. Minor quantities of five (5) pounds or less of hazardous wastes resulting from local agricultural, commercial or residential sources are excluded this local law, provided these wastes are managed in an environmentally safe manner, consistent with Federal and State regulations dealing with hazardous wastes.

### **Section 7.7 Stormwater Management and Erosion Control**

1. Stormwater management and erosion control plans shall be prepared for all land development projects and construction activities in the Town when it is determined that stormwater runoff and/or erosion will have a significant impact on the environment.
2. Such plans shall include provisions for stormwater detention which shall limit and control the rate of runoff. The design shall assure that the runoff after development does not exceed that existing at the time of plan submission. Calculations demonstrating that this condition is met for both a 10 and a 25 year

frequency storm shall be submitted with the plan for review by the Town Planning Board or licensed engineer employed by the Town.

3. Plans shall also include provisions for siltation and erosion control, both during and after construction. The siltation and erosion control plan for use during construction shall be shown on the construction drawings for the development. Vegetation shall be established on all disturbed areas as soon as possible upon completion of the work. Siltation measures shall be maintained in continuous use until adequate vegetation is established.

4. The following activities are exempt from these requirements:

- a. Agricultural activities, including household gardening.
- b. Development of one single family dwelling or duplex residential structure not in an existing subdivision.
- c. Excavations for septic tank systems, wells and swimming pools accessory to single family residences.

## **Section 7.8 Adult Uses**

### **7.8.1. Findings of fact and statement of purpose.**

The Board of the Town of Yorkshire has determined that buildings and establishments operated as Adult Uses will have a negative impact on the community including declining property values, deterioration of community character and quality of life, an increase in crime and negative perception of neighborhoods where adult businesses exist. In order to prevent crime, maintain property values, protect the Town's retail trade, and generally to protect and preserve the quality of residential neighborhoods, commercial districts and the quality of life in the Town of Yorkshire, this section is intended to promote the health, safety and general welfare and good order of the residents of the Town by regulating and concentrating Adult Uses. The Town Board has considered all possible options and the type of regulations being imposed hereunder is the least intrusive method of regulating such uses.

### **7.8.2. Definitions**

Adult Bookstores - Any business enterprise whether retail or wholesale, having more than 5% of its net floor space set aside or more than 5% of the value of its stock in trade allocated to recordings, books, magazines, pamphlets, pictures, drawings, photographs, periodicals, motion picture films, video tapes, cassettes, tapes or sound recordings, or printed visual and audio material of any kind for sale or viewing on or off the premises, which are characterized by their emphasis on matter describing or depicting human males and/or females in full or partial nudity, including, but not limited to, displaying male or female genitals, pubic areas or buttocks with less than a full opaque covering or related to sexual activities.

Adult Entertainment Establishment - Any business enterprise having more than 5% of its net floor space areas set aside for the presentation of live shows, motion picture films or sound recordings, or similar visual or audio material, which are characterized by their emphasis on the description or depiction of human male or female genitals, public areas or buttocks with less than a full opaque covering or specified sexual activities; or any business enterprise that offers services requiring the client or customer to appear in full or partial state of nudity or to display male or female genitals, pubic areas or buttocks, except medical and health service establishments.

Adult Cabaret - A night club, bar, restaurant or similar commercial establishment which regularly features: 1. persons who appear in a state of nudity; 2. live performances which are characterized by the exposure of human male or female genitals, pubic areas or buttocks with less than a full opaque covering or which are characterized by performers that carry out or simulate sexual activities; 3. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction of human male or female genitals, pubic areas or buttocks with less than a full opaque covering or which are characterized by performers that carry out or simulate sexual activities.

Adult Motion Picture Theater - An enclosed structure, or portion thereof used for presenting materials distinguished or characterized by an emphasis on matters depicting, describing or relating to human male or female nudity, or depicting human male or female genitals, pubic areas or buttocks, for observation by patrons.

Adult Theater - A theater, concert hall, auditorium or similar establishment which features persons who performances which are characterized by the exposure of human male or female genitals, pubic areas or buttocks, by performances which are characterized by the exposure of human male or female genitals, pubic areas or buttocks, by performers who carry out or simulate sexual activities.

Adult Use - For purposes of this law, the term Adult Use shall include Adult Bookstores, Adult Entertainment Establishments, Adult Cabarets, Adult Motion Picture Theaters and Adult Theaters as well as any use determined by the Town Board to be similar in nature and character to the uses specifically identified herein.

### 7.8.3. General Restrictions

Adult Uses, including but not limited to Adult Bookstores, Adult Entertainment Establishments, Adult Cabarets, Adult Motion Picture Theaters and Adult Theaters shall be permitted subject to the following restrictions:

- a. No such Adult Use shall be located within 100 feet of public highway.
- b. No such Adult Use shall be located within 500 feet of an existing Adult Use.
- c. No such Adult Use shall be located within 100 feet of the boundaries of any Zoning District which is zoned for residential use.
- d. No such Adult Use shall be located within 1000 feet of a school or a place of worship.
- e. No such Adult Use shall be located in any Zoning District except the Industrial District.
- f. No buildings, establishments or facilities containing an existing Adult Use shall be expanded without the issuance of a Special Use Permit as herein provided.
- g. No Adult Use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not registered as an Adult Use. This provision shall apply to any display, decoration, sign, show window, or other opening.
- h. No off site signs shall be permitted. Not more than one business wall sign shall be permitted and shall only identify the business name and not advertizing the material being offered at the adult use. Such sign and its location shall be reviewed by the Planning Board in conjunction with the special use application.

#### 7.8.4. Registration Procedures

The owner or occupant of a building or premises, his/her agents or employees for the purpose of managing or controlling or collecting rents thereon, or any other person managing or controlling a building or premises, or any part thereof, which contains and Adult Use, shall register the following information with the Code Enforcement Officer:

- a. The address of the premises.
- b. The name and address of the owner of the premises and the names and addresses of the beneficial owners if the property is in a trust.
- c. The name of the business or the establishment subject to the provisions of this article.
- d. The names and addresses of the owner(s), majority stockholders of an incorporated business or the beneficial owners of the establishment subject to the provisions of this Article.
- e. The date of initiation of the Adult Use.
- f. The nature of the Adult Use.
- g. A copy of the Deed to the premises or the lease for the same, whichever applies.

It is a violation of this section for the owner or person in control of any property to establish or operate thereon or to permit any property to establish or operate thereon an Adult Use without having properly registered said Adult Use with the Code Enforcement Officer.

#### 7.8.5. Registration Display

The owner, manager, or agents of a registered Adult Use shall display in a conspicuous place on the premises of the Adult Use a copy of the registration filed with the Code Enforcement Officer.

#### 7.8.6. Special Use Permit:

No use as described in this section shall be established before the issuance of a Special Use Permit by the Zoning Board of Appeals. Application for such Special Use Permit shall be in writing to the Code Enforcement Officer.

### **Section 7.9 Excavation and Mining**

#### 7.9.1 Intent

For the purpose of promoting the safety, health and general welfare of the residents of the Town of Yorkshire, it is hereby declared to be the policy of the Town of Yorkshire to provide for the proper use of land, to prevent all mining and the establishment of mines as both are defined in Section 23-2705 (5)(8) of the Environmental Conservation Law and all manner of excavations which create pits, holes, or hollows in the earth and to prevent removal of materials of any and all sorts from the natural contour of the earth, as it presently exists in the Town, which would leave such land or earth in a hazardous or dangerous state, cause soil erosion which depletes the land of



trees and its natural vegetative cover and supply of organic material, render such land unproductive and unsuitable for either agricultural purposes or the construction of residences or other structures, resulting in lower land values and a depreciation and value of other properties in adjacent areas within the Town. This section is intended to remove the danger to health and life caused by soil erosion, deep excavations remaining in the ground, the removal of trees in the stripping of topsoil, thereby resulting in danger to the health, safety and welfare of the Town and damage to agricultural crops through dust storms, by exposure of the bare earth to wind action and the erosion by surface water drainage and the creation of pools of water. It is also the purpose of this section to prevent such results where trees, topsoil, sand and gravel are removed ostensibly or actually for the purpose of preparing property for development for residential or commercial use or for any use whatsoever, but such proposed development does not actually take place within a reasonable time after the commencement of such removal operations and/or as merely a subterfuge engaged in for the purpose of removing various valuable materials from the property.

#### 7.9.2 Definitions

1. "Sandbank Excavation" is hereby defined as any excavation of stone, gravel, sand or other mineral materials from property having an elevation higher than the crown of the adjacent or abutting street, road or highway or the means of access thereto from the nearest street, road or highway; provided, however, that no premises may be excavated to a greater depth than 18 inches above such street, road, highway or means of access.
2. "Sandpit" is hereby defined as an excavation extending to a depth of more than 18 inches below the grade of the crown of an adjacent or abutting street, road, highway or access thereto.
3. "Topsoil Stripping" shall consist of the removal from any given premises of soil, earth or organic material which ordinarily gives sustenance to natural vegetative growth. Such soil, earth or organic material must be allowed to remain upon, or must be added to all property within the Town of Yorkshire which is filled in or the grade of which is altered from naturally existing contour, so that it shall have a depth or vertical thickness of not less than six (6) inches, whether such premises comprise excavated or filled lands.

7.9.3 Exceptions - The following operations and uses are hereby excepted from the applications of this section;

1. Excavation or removal of sand, gravel, stone, trees or other minerals or materials incident to highway, sidewalk or driveway construction upon the same premises;
2. The moving of tress, topsoil or other earth, sand or gravel from, one part to another of the same premises as an incident to construction of a building, to farming or landscaping;
3. Removal of trees, excess topsoil or other earth, or sand, gravel or other materials from the area of a subdivision plat subject to the jurisdiction of the Planning Board;
4. Removal of trees, topsoil or other earth incident to the business of operating a farm, nursery or sod farm; and

5. Excavation or removal of sand, gravel, stone or other minerals or materials, or the removal of trees and topsoil from premises owned by or leased to the Town of Yorkshire.

#### 7.9.4 Application for Special Use Permit

Before any excavation or the continuation of any existing excavation including a sandbank, sandpit or a gravel bank excavation or the removal of trees and/or topsoil for any purpose other than those excepted under the provision of 7.9.3, the owner, tenant, lessee, agent, user or developer of any premises subject to the provisions of this section must obtain a Special Use Permit therefore. In order to obtain such permit, an applicant shall file a verified application in duplicate for such permit, which application shall be on a form prescribed by the Planning Board, and which shall also furnish the following detailed information and materials, together with such other information as the Town Engineer and Planning Board shall deem necessary or desirable for the purpose of complying with the spirit and intent of this section:

1. A detailed statement of the nature and extent of the work proposed to be done, including the number of acres to be effected thereby, the kinds and amounts of all materials proposed to be removed, the structure to be erected, if any, the manner in which it is proposed to do the work and the period of time required to complete such work including restoration, rehabilitation, filling of pits, excavations and other depressions in the earth caused by the excavation operations and all other types of removal operations;

2. A topographic map, certified by a surveyor or professional engineer duly licensed by the State of New York, showing the elevations of the property at intervals of two (2) feet of height as such elevations exist at the time of the application, and as proposed to be altered. Such map shall be drawn to a scale of not greater than one (1) inch to one hundred (100) feet nor less than one (1) inch to twenty (20) feet, shall show the elevations of all property within fifty (50) feet of the perimeter of the property which is the subject of the application and of all streets or road, adjoining said property or, if there are no adjoining streets or roads, the means by which access is to be gained to the property and the location, elevation and name of the nearest street or road. It shall also show the location, size and use of existing buildings, and the zoning classification of all property shown upon such map. Such map shall be submitted in sections showing the stages in which the work is proposed to be done and shall also show the length of time necessary to accomplish each stage, including building restoration and rehabilitation of the property. No application for a Special Use Permit to commence or continue a commercial excavation shall be granted by the Planning Board unless the property which is the subject of the application is located in a proper permitted use zone or in an existing nonconforming use.

3. A written consent duly executed and acknowledged by the owner, mortgagee and all other persons having an interest in the premises, showing their names and residents addresses.

#### 7.9.5 Procedure on receipt of application.

1. Applications for a Special Use Permit required under this section shall be referred by the Code Enforcement Officer to the Planing Board for site plan review pursuant to the provisions Article 9 of this Local Law.

2. In addition to other requirements contained in Article 9, no application shall be approved, approved with conditions, or disapproved by the Planning Board until it has made all of the

following findings, which need not be based solely upon information provided by the applicant, but may also be based upon other information or knowledge obtained by the Planning Board or its members, including information from the Town Engineer, however or whenever obtained; (1) the proposed operations will not interfere with the surface water drainage plan of the area nor endanger any street, road or highway; (2) the circumstances of the location and terrain are reasonably adapted to restoration and rehabilitation to the end that the premises will not become a wasteland or cause soil erosion following completion of operations; (3) the circumstances of the location and the terrain are such that conditions and safeguards may feasibly be imposed to assure that the premises will not constitute an "attractive nuisance" or threat to the safety of children or other residents of the Town; (4) the use will not cause undo traffic hazards; (5) the use will not cause undo vibration, noise or wind blown dust or sand; (b) the use will not change the established character of the neighborhood or depress the value of other lands generally in such neighborhood; and (7) the time when such area shall be filled in and restored and the method to be used for that purpose.

#### 7.9.6 Limits of Excavation

No such excavation shall be made:

1. Within fifty (50) feet of any property line and unless the sidewalls of such excavation remain at an incline of not less than one (1) foot in vertical measurement to two (2) feet of horizontal measurement, or are made safe and stable by any means approved by an engineer licensed by the State of New York;
2. Unless provisions acceptable to an engineer, approved by the Planning Board, shall be made to eliminate or reduce, insofar as possible, the hazard and nuisance of dust and other matter being carried by the wind or surface drainage waters from the premises for which a permit has been issued on to either the premises of others adjacent immediately thereto or on to any other road, street or highway;
3. The Planning Board may require that the applicant, its successors or assigns, be required to use chemicals or other materials to prevent nuisance by the flying dust, sand, gravel or other particles due to wind or surface water action, and may require a depth limitation;
4. Where public safety requires, an engineer may require that the applicant provide reasonable safeguards at the premises for the protection of the public.

7.9.7 The provision of this Article shall not prevent the Town Board from maintaining an action or proceeding in the name of the Town in any court of competent jurisdiction to compel strict compliance with the provisions of this local law or restrained by injunction of violation of any of the provisions of this local law or any rule or regulation promulgated hereunder.

## **Section 7.10 Solid Waste Disposal**

### 7.10.1 Introductory Matters

1. The Town Board finds that environmental science is presently inadequate to satisfactorily evaluate and control pollution from solid waste disposal facilities such as landfills; ash fills; resource recovery or incinerator facilities. Among other factors, the Board finds as follows:

- a. The inability of geological science to precisely ascertain the existence and flow of ground waters and to map subterranean geology makes it impossible to determine the extent to which solid waste disposal may, or may not be, contaminating water supplies.
- b. Moreover, the accumulated extent of hazardous waste disposal in solid waste disposal facilities cannot be measured or accurately determined because of state and federal regulations permitting disposal of residential or small user quantities of hazardous wastes.
- c. The Town's needs for solid waste disposal are being met by the Cattaraugus County Department of Public Works and private firms.
- d. Future correction of pollution from sanitary landfills may be very expensive or impossible to achieve. Ground water pollution threatens the health and livelihood of Town residents who rely exclusively on ground water for human consumption and agricultural purposes.
- e. The Town's existing community character will be adversely and unalterably impacted by the location and operation of any solid, liquid, radioactive or infectious waste management facilities within the Town.
- f. Substantial scientific opinion questions the environmental and health effects of both "resource recovery" facilities that incinerate or burn solid waste and of the handling and disposal of ash residue from such facilities. Recent NYSDEC and Federal Environmental Protection Agency studies indicate that such ash often demonstrates the characteristics of hazardous waste by the leaving of heavy metals in toxic, amounts.
- g. Solid, liquid and radioactive waste regulation under the New York Environmental Conservation Law (ELC) is inadequate to relieve the foregoing concerns.

### 2. Purpose of Local Law

The Town Board intends by this Local Law:

- a. To prohibit the operation of solid waste management facilities within the Town in order to preserve and promote a clean, wholesome, and attractive environment for the community.
- b. To protect the residents of the Town from the effects of solid waste disposal, including:
  - i. unaesthetic results, including odors, blowing litter, increased traffic, dust, and noise, and

ii. deterioration in property values associated with adjacent or proximate disposal operation that may interfere with the orderly development of properties; and

iii. threats to public health or the environment by contamination of air, land, surface waters, or groundwaters.

c. To exercise the Town's police powers under the Municipal Home Rule Law and Sections 130 and 136 of the Town Law for the physical and mental well-being and safety of its citizens and to prohibit solid, liquid, radioactive and infectious waste disposal operations within the Town that might otherwise be permitted under the Environmental Conservation Law (ECL). Section 27-0711 of the ECL specifically recognizes and authorizes the right and authority of a town to legislate stricter controls on solid, liquid, radioactive and infectious waste disposal operations than state law requires.

#### 7.10.2 Definitions

The following definitions shall apply to the corresponding words:

1.6 NYCCR - Title 6 of the New York Code, Rules and Regulations.

2. SOLID WASTE MANAGEMENT FACILITY - any facility employed beyond the initial solid waste collection process and managing solid waste including, but not limited to: storage areas or facilities; transfer stations; rail-haul or barge-haul facilities; processing facilities; landfills; ashfills; disposal facilities; solid waste incinerators; recycling facilities; and waste tire storage facilities.

3. SOLID WASTE - all putrescible and non-putrescible materials or substances that are discarded or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial, commercial and household waste, sludges from air or water treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, large household furnishings, major appliances and junk. In addition:

a. A material is "discarded" if it is abandoned by being:

i. disposed of,

ii. burned or incinerated, including being burned as a fuel for the purpose of recovering useable energy; or

iii. accumulated, stored, or physically, chemically, or biologically treated (other than burned or incinerated) instead of or before being disposed of

b. A material is "disposed of" if it is discharged, deposited, injected, dumped, spilled, leaked or placed into or on any land or water.

c. The following are not solid waste for the purposes of this local law:

i . domestic sewage;

ii. any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works for treatment, except for any material that is introduced into such system in order to avoid the provisions of this local law;

iii. industrial wastewater discharges that are actual point source discharges subject to permits under ECL Article 17;

iv. irrigation return flows;

v. radioactive materials which are source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended;

vi. wood chips used for mulch, landscaping or erosion control purposes.

4. INDUSTRIAL WASTE - any liquid, gaseous, solid, or waste substance or combination thereof resulting from any process of industry, manufacturing, trade, or business. It shall include but not be limited to, pesticides, lime, acids, chemicals, petroleum products, tar, and dye-stuffs.

5. COMMERCIAL WASTE - solid waste generated by stores, warehouses, restaurants, hospital, medical and dental facilities.

6. HOUSEHOLD WASTE - solid waste from residential sources.

7. CONSTRUCTION AND DEMOLITION DEBRIS - uncontaminated, inert solid waste resulting from the construction, remodeling, repair and demolition of structures, and from road building and land clearing. Such waste includes, but is not limited to, bricks, concrete and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, non-asbestos insulation, roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes, and metals that are incidental to any of the above.

8. LANDFILL, or SANITARY LANDFILL - any disposal area for solid wastes in or upon the ground.

9. ASHFILL - any landfill designed to accept ash, ash residue, bottom ash, combined ash or fly ash.

10. ASH RESIDUE - all the solid residue and any entrained liquids resulting from the combustion of solid waste at a solid waste incinerator, including bottom ash, boiler ash, fly ash, and the solid residue of any air pollution control device used at a solid waste incinerator.

11. BOTTOM ASH - the ash residue remaining after combustion of solid waste in a solid waste incinerator that is discharged through and from the grates or stoker.

12. COMBINED ASH the mixture of bottom ash and fly ash.

13. FLY ASH - the ash residue from the combustion of solid waste that is entrained in the gas stream of the solid waste incinerator, which includes, but is not limited to, particulates, boiler ash, cinders, soot, and solid waste from air pollution control equipment.

14. PERSON --any individual, partnership, firm, association, business, industry, enterprise, public or private corporation, political subdivision of the state, government agency, municipality, estate, trust, or any other legal entity whatsoever.

15. RECYCLING - means the reuse of solid waste recovered from the solid waste stream into goods or materials suitable for reuse in original or changed form.

16 LARGE HOUSEHOLD FURNISHINGS - all large and/or bulky articles, excluding major appliances, actually used in the home and which equip it for living such as chairs, sofas, tables, beds, sinks and bathtubs.

17. MAJOR APPLIANCES - large and/or bulky household mechanisms such as refrigerators, washers, dryers and stoves ordinarily operated by gas or electric current.

18. JUNK - includes, but is not muted to, discarded motor vehicles or parts thereof, batteries, including vehicle batteries, parts of refrigerators, washers, dryers, bed springs, vehicle frame parts, crank cases, transmissions, engines, lawnmowers, snow blowers, bicycles, file cabinets, air conditioners, hot water heaters, water softeners, furnaces, oil storage tanks, water storage tanks, metal furniture and any part or parts of the foregoing.

#### 7.10.3 Exemptions

The following are not subject to this Local Law:

1. Any disposal of manure in normal farming operations,
2. Any operation or facility which receives or collects only non-putrescible, nonhazardous solid waste and beneficially uses or reuses or legitimately recycles or reclaims such waste. Such exempt facilities would include citizen recycling programs, municipal recycling programs, municipal recycling operations, and bona-fide salvage dealers.

None of the above exemptions shall be construed to permit any activity contrary to existing building codes or other laws or as exempting persons engaging in any such activities from obtaining any other permits required by state or local law.

#### 7.10.4 Prohibited Activity

1. No solid waste management facility (landfill, ashfill, solid waste incinerator, etc.) shall be permitted to commence operation or to continue operation within the Town.
2. Waivers from these prohibitions may be granted by the Town Board in its discretion, and on such conditions as it may reasonably establish, only for facilities located on an applicant's premises and serving only the applicant's waste products generated within the Town. Persons who believe they qualify for such a waiver shall apply to the Town Board and provide such information, proof of financial security, and other such documents as the Town Board may reasonably require. No person who qualifies for and receives this waiver shall accept, handle, import, transport, or handle any waste created or generated by any other party or from any location outside of the Town. In addition, such person shall be liable for all damages and claims that may result from disposal of any solid or liquid waste on his or her premises.

3. It shall be unlawful for any person to dump, throw, deposit, place or cause to allow to be dumped, thrown, deposited or placed in any location within the Town of Yorkshire any solid waste or any noxious material, except at a solid waste disposal facility, transfer station or recycling center established, licensed or contracted with by the County of Cattaraugus or the New York State Department of Environmental Conservation.

#### 7.10.5 Enforcement

1. Upon a violation of this Section by any person, the Town Board shall be entitled to obtain an injunction against such persons prohibiting further violations and, in addition, ordering that any solid or liquid waste disposed of in violation hereof be removed from the Town, ordering that any land on which solid waste is disposed of in violation of this Section be restored as nearly as possible to its former condition by the removal of any waste illegally disposed of and by such other restorative measures as are available, and further ordering that the operator remedy any effects of the violation on surrounding or adjacent properties or resources, including, without limitation, air crops, water bodies, wetlands, and groundwaters.

2. For any violation of this Section the violator shall be subject to a civil penalty of up to \$25,000 for each violation. Each day of non-compliance shall be a separate and distinct violation. The Town shall be entitled to recover such fines in an action at law in any court of competent jurisdiction.

3. Upon an action for injunctive relief or for a civil penalty hereunder, the Town shall be entitled to a further award and judgment for its costs, expenses, disbursements, and reasonable attorneys' fees in connection therewith.

4. If any person who obtained a waiver pursuant to Section 7.10.4 violates any term or condition of the waiver then the Town, in addition to 1, 2, and 3 above, shall also be entitled to revoke the waiver.

### **Section 7.11 Hazardous Wastes**

#### 7.11.1 Purpose

The Town of Yorkshire is primarily responsible for promoting the health, safety and general welfare of its residents and the environmental quality of its lands. This Section is designed to preserve, protect and insure the quality of the natural man-made environment within the Town of Yorkshire for this generation of residents and generations to follow.

#### 7.11.2 Applicability

This Section shall apply to all territory within the Town of Yorkshire. Minor quantities of five (5) pounds or less of hazardous wastes resulting from local agricultural, commercial or residential sources are excluded from this Section, provided these wastes are managed in an environmentally safe manner, consistent with Federal and State Regulations dealing with hazardous wastes.



### 7.11.3 Definitions

Certain terms used herein shall be defined as follows:

**FACILITY** - Shall mean any combinations of structures and/or machinery, lagoons, pits, beds, excavations, landfills, burial sites and devices, designed in whole or in part for the purpose of or in association with the permanent or temporary storage, recycling, processing, neutralizing, drying, solidification or incineration of chemical wastes.

**HAZARDOUS WASTE** - Shall be those identified and defined by Title 40 of the Code of Federal Regulations, Part 261, and any future modifications or amendments of Title 40, Part 261 shall become a part of this Section. Title 40 of the Code of Federal Regulations, Part 261 is adopted by the Town Board and incorporated herein by reference as if fully set out at length. A copy of said Title and Part as published in the Federal Register Vol. 45, No. 98, dated Monday, May 19, 1980, and being pages 33119 through 33133 are now filed in the office of the Clerk of the Town of Yorkshire.

**PERSON** - Shall mean any individual, partnership, firm, association, business, industry, enterprise, public or private corporation, political sub-division of the State, Government Agency, municipality, estate, trust or any other legal entity whatsoever.

### 7.11.4 Prohibited Activities

No person shall construct, operate and/or establish a facility for the internment, storage, temporary storage, recycling and/or processing of hazardous waste within the Town of Yorkshire. The only exemption under this Section is that described in 7.11.2 Above mentioned.

### 7.11.5 Enforcement

A violation of this Section or any regulations or provisions thereof will be deemed a Class A Misdemeanor punishable by a fine not exceeding \$1,000.00 or imprisonment not exceeding one (1) year, or both. Each and every day that the violation of this Section is permitted to exist will constitute a separate offense. In addition, any violation of this Section or regulation or provision thereof, will create a liability to the people of the Town for a civil penalty not to exceed \$5,000.00 to be assessed after a hearing upon due notice and with the right to a specification of the charges, and to be represented by counsel at such hearing.

## **ARTICLE 8 SPECIAL USE PERMITS**

### **Section 8.1 Intent**

The intent of Special Use approval is to allow the proper integration into the community of uses which may be suitable only under certain conditions and at appropriate locations. Because of their unusual characteristics, or the special characteristics of the area in which they are to be located, special uses require careful consideration so that they may be properly located and conditioned in order to minimize their effect on nearby properties and to meet the objectives of this zoning law.

### **Section 8.2 Authorization to Grant Special Use Permits**

8.2.1. The Planning Board shall hear all applications for Special Use Permits for uses that are so listed in Article 4 and elsewhere in this law. After evaluating the application using the criteria established in Section 8.4 and considering the intent and purpose of this law, the Planning Board may approve or deny the application for Special Use Permit.

8.2.2. If the application is approved, the Planning Board may impose any reasonable conditions that it feels are necessary to mitigate potential impacts to the neighborhood, to the Town as a whole, or to the environment. These conditions may include, but are not limited to, the following:

- a. Limiting the hours of operation
- b. Requiring fencing, screening, and landscaping to protect adjacent or nearby property
- c. Limiting the number, size and location of signs
- d. Controlling the number and location of driveway entrances
- e. Requiring that the Special Use Permit be renewed periodically

8.2.3. If conditions are imposed by the Planning Board, those conditions must be satisfied before the Building Inspector can issue a Building Permit or a Certificate of Occupancy. The Planning Board shall determine when the condition must be met.

### **Section 8.3 Application Procedure**

8.3.1. An applicant for a Special Use Permit shall submit a completed application to the Code Enforcement Officer, who shall forward it to the Planning Board.

8.3.2. The application shall contain the following information and materials.

- a. An application for a building permit
- b. A plot plan, showing the size and location of the lot, the location of all buildings on the lot, driveway entrances, parking areas, any other proposed features.
- c. Floor plans and elevations
- d. All required fees
- e. Any other information that the Planning Board determines is necessary to consider the application.

The Planning Board may, at its discretion, waive any application requirement that it deems is not relevant to a particular application.

8.3.3. The Planning Board shall hold a public hearing on the application within sixty-two (62) days from the day the completed application is received by the Code Enforcement Officer.

Public notice of the hearing shall be printed in a newspaper of general circulation in the Town at least five (5) days prior to the date thereof.

In addition, the Planning Board shall send notice of such hearing to every owner of a parcel that abuts the parcel that is the subject of the application. Such notices shall be mailed at least ten (10) days prior to the public hearing.

8.3.4. The Planning Board shall decide on the application within sixty-two (62) days after the date of the public hearing. The time within which the Planning Board must reach its decision may be extended by mutual consent of the applicant and Planning Board.

8.3.5. The Planning Board shall file a copy of its decision on the application with the Town Clerk within five (5) business days of the date of the decision. A copy of the decision shall be mailed to the applicant at the same time.

8.3.6. The Planning Board shall comply with the provisions of the State Environmental Quality Review Act. (SEQRA).

#### **Section 8.4 Criteria for Grant Special Use Permits**

The Planning Board shall not grant any Special Use Permit unless it finds that the proposed action is in accordance with the following criteria:

1. The proposed project is in harmony with the goals and objectives established in the Town's adopted "The Yorkshire Vision."
2. The proposed project is in harmony with the general purposes and intent of this law.
3. The nature and intensity of the proposed use is in harmony with the character of the adjacent neighborhood.
4. The proposed project will not tend to depreciate the value of adjacent property. A Special Use Permit shall only be granted when the proposed use is of such character, size and location that in general it will be in harmony with the orderly development of the district in which the property is situated and will not be detrimental to the orderly development of adjacent areas.
5. The proposed use will not alter the essential character of the neighborhood nor be detrimental to the residents thereof. A permit for a special use in a residential area shall only be granted when it is clearly obvious that the special use will not impair the use, enjoyment, and value of adjacent residential properties, and that any vehicular traffic generated will not be hazardous or otherwise detrimental to the prevailing residential character of the neighborhood.
6. If located near any parcel being used for an agricultural activity, the proposed use will not unduly adversely affect the pre-existing agricultural use.
7. The proposed project will not be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of such proposed use or will not be detrimental or injurious to the property.
8. Essential public facilities, such as streets, police and fire protection, water and sewer systems exist to adequately serve the proposed project or will be provided adequately by the applicant on-site.
9. There is adequate on-site parking provided, and the proposed project will not unduly increase traffic in the neighborhood of the site.
10. The proposed project is adequately screened from adjacent properties.

11. The proposed project is compatible in design, scale and materials with the prevailing architectural standards in the general neighborhood.

12. The proposed project will not generate excessive noise, odor, dust, smoke or vibrations.

13. The proposed project will not result in the destruction, loss or damage of a natural, scenic or historic feature of major significance.

14. The proposed project conforms to all applicable requirements contained in Article 6, Development Standards and Article 7, Supplementary Regulations of this law.

### **Section 8.5 Expiration Of Special Use Permit**

A Special Use Permit shall expire if the Special Use shall cease continuously for one ( 1 ) year or more, or if construction or other use of the property in accordance with the Special Use Permit has not been commenced within one year of the date of approval. Extension may be granted only by the Planning Board, upon written application by the original applicant.

## **ARTICLE 9 SITE PLAN REVIEW**

### **Section 9.1 Purpose**

The purpose of this article is to ensure that any new development in the Town of Yorkshire is in harmony with the current rural character of the Town and that new development meets the guidelines for development laid out in "The Yorkshire Vision." An additional purpose is to evaluate site plans in order to minimize conflicts between a proposed development and neighboring existing uses and natural features of the site; this will minimize any potential adverse effects to the health, safety, and general welfare of the Town of Yorkshire.

### **Section 9.2 Authorization to Review Site Plans**

9.2.1. The power to approve, approve with conditions, or disapprove site plans is hereby vested in the Planning Board of the Town of Yorkshire.

9.2.2. When approving a site plan, the Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to the proposed site plan.

9.2.3. Where applicable, site plan approval must be obtained, and all conditions of approval must be met by the applicant, prior to the issuance of a Building Permit or Certificate of Occupancy. The Planning Board shall determine when the conditions are met.

9.2.4. Where a variance would normally be required under provisions of this law, the Planning Board shall not have the authority to vary those provisions under site plan review. Application must be made to the Zoning Board of Appeals for a variance and the Zoning Board of Appeals shall act on the application for a variance prior to final Planning Board action on the application for site plan approval.

### **Section 9.3 Applicability and Exceptions**

All new development and land use activities shall require site plan review and approval prior to the issuance of a building permit, except the following:

1. All agricultural activities, including construction of buildings and structures that are normally accessory to agricultural activities.
2. Construction of new one-family or two-family dwellings, including ordinary accessory structures and related land use activities. Additions, of any size, to existing one family and two-family dwellings are also exempt from site plan review.
3. Signs, except for signs that are included in projects that would otherwise require site plan review.
4. Ordinary repair or maintenance or alterations to existing structures or uses.
5. Interior structural alterations within any existing building
6. The sale of agricultural produce and temporary structures related to sale of agricultural produce.
7. Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than twenty-five (25) percent.

8. Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this law.

9. Logging and timber cutting.

10. Home occupations

#### **Section 9.4 Application Procedure**

9.4.1. An applicant for Site Plan approval shall submit a completed application to the Code Enforcement Officer, who shall forward it to the Planning Board.

9.4.2. The application shall contain the following information and materials:

- a. An application for a Building Permit
- b. An area map showing:
  - (1) The applicant's entire holdings
  - (2) All adjacent properties
  - (3) Adjacent streets and roadways
- c. A plot plan, drawn to scale and having a north arrow and date, that shows:
  - (1) The location, dimensions, and use of all proposed buildings
  - (2) Means of access and egress
  - (3) All parking facilities and loading areas
  - (4) Location, design, and size of all signs
  - (5) Physical features intended to protect adjacent land uses, including screening, fencing and landscaping
  - (6) Existing natural features, such as wetlands, water bodies, watercourses, Flood plain areas, and wooded areas. The plot plan shall also show all trees that would be affected by the proposed project.
- d. Floor plans and elevations showing all architectural features, including materials to be used.
- e. A description of the sewage disposal and water supply systems to be used. Their location shall be shown on the plot plan.
- f. Grading plan showing existing and finished contours and grades, the location of any slopes of five (5) percent or greater, and proposed erosion control measures
- g. If the proposed project is in or near a Flood plain, the applicant shall show that the project would not increase the base flood elevation. This proof shall be prepared by a registered professional engineer or architect.
- h. Landscaping plan and planting schedule
- i. Location and design of outdoor lighting facilities
- j. Description of the nature and intensity of the proposed operation and its compatibility with surrounding development.
- k. Any additional information the Planning Board deems is necessary for an adequate assessment of a particular application
- l. Compliance with the provisions of the State Environmental Quality Review Act. (SEQRA).
- m. All required fees

The Planning Board may, at its discretion, waive any application requirement that it deems is not relevant to a particular application.

#### **Section 9.5 Pre-Application Conference**

A sketch plan conference may be held between the Planning Board and the applicant prior to the preparation and submission of a formal site plan. The purpose of the preapplication conference is to enable the applicant to inform the Planning Board of the proposal prior to the preparation of a detailed site plan

application. The Planning Board shall review the basic site design concept and advise the applicant as to potential problems and concerns and generally determine the information to be required for the site plan application. In order to accomplish these objectives, the applicant should provide the following at the pre-application conference:

1. A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, signs, existing and proposed vegetation, and other planned features. In addition, anticipated changes in the existing topography and natural features and, where applicable, measures and features to comply with Flood plain regulations, should be shown.
2. A sketch or map of the area which clearly shows the location of the site with respect to nearby street rights-of-way, properties, easements and other pertinent features.

### **Section 9.6. Planning Board Action on the Site Plan**

9.6.1. The Planning Board shall act on the application for site plan approval within sixty-two (62) days of the date that a complete application was received by the Code Enforcement Officer. The time within which the Planning Board must make a decision may be extended by mutual consent of the applicant and the board.

9.6.2. The decision of the Planning Board shall be filed in the office of the Town Clerk within 5 business days and a copy thereof mailed to the applicant.

### **Section 9.7 Criteria for Approving Site Plans**

When making a decision to approve, approve with conditions, or disapprove a Site Plan, the Planning Board shall consider the following.

1. The proposed project is in harmony with the goals and objectives established in the Town's adopted policy guideline, "The Yorkshire Vision".
2. Compatibility of the proposed project with the general purposes and intent of this zoning law
3. Compatibility of the proposed development with the natural features of the site.
4. Compatibility of the proposed development, including the nature and intensity of use, with the existing uses and character of the neighborhood.
5. Adequacy of on-site parking arrangements, both in terms of number of spaces and their arrangement on the lot.
6. Adequacy of the means of access and egress to and from the site, for both pedestrians and vehicles, and adequacy of the internal circulation of the site.
7. Location, arrangement, appearance and sufficiency of off-street loading facilities.
8. Adequacy, type, and arrangement of trees, shrubs, walls, fencing and other features proposed to provide screening between the site and adjacent land uses.
9. Size, number, placement and arrangement of signs.
10. Adequacy of trees, shrubs, and other landscaping proposed for the site.

11. Location, size, arrangement, and design of the proposed buildings and other structures, including the compatibility of the proposed architectural features, scale, colors and materials with the existing surrounding area.
12. Adequacy, location and design of lighting.
13. Adequacy of storm water and sanitary waste disposal
14. Adequacy of the water supply system
15. Compliance with the Americans with Disabilities Act (ADA).
16. When considering an application containing residential units, the adequacy of land for park, playground or other recreational purposes, if appropriate.
17. Protection of solar access on adjacent or neighboring properties.
18. The requirements of Articles 6 and 7 that apply.
19. Any other elements as may reasonably be related to the health, safety, and general welfare of the community.
20. Development in an established agricultural district must follow NYS Agriculture and Markets procedure.

### **Section 9.8 Expiration of Site Plan Approval**

Approval of the site plan shall expire one (1) year from the date of approval, if the applicant has not commenced construction on the project within that time. Extension of the approval may be granted only by the Planning Board, upon written application by the original applicant.



## **ARTICLE 10 NON CONFORMING USES, BUILDINGS AND LOTS**

### **Section 10.1 Continuation of Use**

10.1.1. Except as otherwise provided herein, any lawfully established use of a building or land existing at the time of the enactment of this law, or any amendments thereto, may be continued although such use does not conform to the provisions of this law.

10.1.2. A nonconforming structure may be continued, provided that, subsequent to the effective date of this law, it does not become more nonconforming.

10.1.3. Nonconforming lot dimensions may continue in existence, provided that, subsequent to the effective date of this law, they do not become more nonconforming.

### **Section 10.2 Change of Use**

10.2.1. The use of a nonconforming building or structure may be changed to a use of a more restricted classification. When the use is changed to a use of a more restricted classification, it shall not thereafter be changed to a use of less restricted classification.

10.2.2. Whenever any part of a building, structure or land occupied by a nonconforming use is changed to or replaced by a use conforming to the provisions of this ordinance, such premises shall not thereafter be used or occupied by a nonconforming use.

10.2.3. In the event a nonconforming structure is moved for any reason for any distance, it shall thereafter conform to the requirements of the district in which it is located after it is moved.

### **Section 10.3 Repairs and Alterations**

10.3.1. Maintenance and repair of a non-conforming structure are permitted. However, no substantial improvements may be made during the life of the structure.

10.3.2. In the event that a nonconforming building or structure is destroyed by fire, flood, or other act of God, the building or structure may be restored or rebuilt to its original condition provided such work is started within twelve (12) months of such calamity and completed within twenty-four (24) months of the calamity and the intensity of use is not increased or changed. In such reconstruction, neither the floor area nor the cubical content of a nonconforming use shall be increased from the floor area or the cubical content of the nonconforming use prior to the time of damage.

### **Section 10.4 Abandonment or Discontinuance of Use**

Whenever a nonconforming use of a building or structure, or part thereof, has been discontinued, as evidenced by vacancy, for a period of twenty-four (24) consecutive months, or whenever there is evident a clear intent on the part of the owner to abandon a nonconforming use, such use shall not after being discontinued or abandoned be reestablished, and the use of the premises thereafter shall be in conformance with the regulations of this law.

Where no enclosed building is involved, voluntary discontinuance of a nonconforming use for a period of twenty-four (24) months shall constitute abandonment, and the structure or lot shall not thereafter be used in a nonconforming manner.

## **ARTICLE 11 ZONING BOARD OF APPEALS**

### **Section 11.1 Appointment**

11.1.1. The Town Board shall appoint a Zoning Board of Appeals consisting of five members. The terms of office shall be five years, excepting that the five members first appointed shall serve for terms of one, two, three, four and five years. All terms will expire at the end of the calendar year

11.1.2. If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint the new member for the unexpired term.

11.1.3. The Town Board shall designate the Chairperson of the Zoning Board of Appeals.

11.1.4. The Zoning Board of Appeals, subject to the provisions of Town Law, shall determine its own rules of procedure.

11.1.5. The members of the Zoning Board of Appeals shall be removable only for cause by the Town Board upon written charges and after public hearing.

11.1.6 No member of the Zoning Board of Appeals shall hold elective or other appointive office in the Town government.

### **Section 11.2. Powers and Duties**

With due consideration for the purpose and intent of this zoning law, the Zoning Board of Appeals shall:

1. Hear and determine appeals from any order, requirement, decision, interpretation or determination made by the Town Board, Planning Board or Code Enforcement Officer charged with the enforcement of this law. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as, in its opinion, ought to have been made in the matter.

2. Decide any question involving the interpretation of any provision of this law, including determination of the exact location of any district boundary, if there is uncertainty with respect thereto.

3. Have the power, upon appeal from a decision or determination of the Code Enforcement Officer, to grant area variances and use variances, as defined in Article 2 of this law.

### **Section 11.3 Procedures**

#### **11.3.1 Appeals**

Any party aggrieved by a decision of the Code Enforcement Officer shall have sixty (60) days after the filing of any order, requirement, decision, interpretation or determination of the Code Enforcement Officer to file an appeal with the Zoning Board of Appeals. Such notice of appeal shall specify the grounds for the appeal and the relief sought. The Code Enforcement Officer shall transmit to the Zoning Board of Appeals copies of all of the documents constituting the record of the appealed action.

The Zoning Board of Appeals shall fix a reasonable time for the hearing of any appeal.

#### 11.3.2 Meetings Open to the Public

Meetings of the Zoning Board of Appeals shall be open to the public to the extent provided in Article Seven of the Public Officers Law.

#### 11.3.3 Minutes and Records

The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.

#### 11.3.4 Filing of Decisions and Notice to the Applicant

Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Zoning Board of Appeals shall be filed on the office of the Town Clerk within five (5) business days and shall be a public record.

In addition, a copy of the decision shall be mailed to the applicant within five (5) business days of the decision.

#### 11.3.5 Public Hearings

Before acting on any matter appealed to it, the Zoning Board of Appeals shall hold a public hearing. The Zoning Board of Appeals shall give notice of such hearing by the publication in a paper of general circulation in the Town at least five (5) days prior to the date thereof.

At least ten (10) days before such hearing, the Zoning Board of Appeals shall mail notices thereof to the parties involved.

In addition, the Zoning Board of Appeals shall send notice of such hearing to every owner of a parcel that abuts the parcel for which a variance or other determination has been requested. Such notices shall be mailed at least ten (10) days prior to the public hearing.

In the event the parcel that is the subject of a request for a variance or other determination is within five hundred (500) feet of any state park or parkway, the Zoning Board of Appeals shall also mail a notice of the hearing to the regional state park commissioner having jurisdiction.

If necessary, the application will be referred to the Cattaraugus County Planning Board, following the regulations in Article 12 of this law.

All notices shall contain a full statement of the matter under consideration.

The cost of sending or publishing any notices relating to any request for a variance or other determination, or a reasonable fee relating thereto, shall be borne by the applicant, and shall be paid prior to the hearing.

At the public hearing, any party may appear in person, or may be represented by an agent or an attorney. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Code Enforcement Officer or to grant a use or area variance.

#### 11.3.6 Timing of Decision

The Zoning Board of Appeals shall decide upon the appeal within sixty two (62) days of the public hearing at which the matter was considered. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Board.

#### 11.3.7. Rehearing

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

#### 11.3.8. Referral to the Planning Board

The Zoning Board of Appeals shall refer to the Planning Board such matters as required by this law, and any other pertinent matters, for review and recommendation, and shall defer any decision thereon for a period of not more than thirty (30) days pending a report from the Planning Board.

The Zoning Board should transmit to the Planning Board a copy of said application or appeal and shall request a determination at least thirty (30) days before the date the Zoning Board's decision is required by law.

### **Section 11.4. Use Variances**

In order for the Zoning Board of Appeals to grant a use variance, the applicant must show that the applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

1. The applicant cannot realize a reasonable return, provided that lack of return is substantial, as demonstrated by competent financial evidence; and
2. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; and
3. That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
4. That the alleged hardship has not been self-created.

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.

### **Section 11.5. Area Variances**

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance were granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; and
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue other than an area variance; and
3. Whether the requested area variance is substantial;
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board, but shall not necessarily preclude the granting of the area variance.

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

### **Section 11.6 Imposition of Conditions**

The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of 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 11.7 Expiration of Grant of Variance**

The grant of a use variance or an area variance shall expire one (1) year from the date of approval, if the applicant has not commenced construction or commenced operation of the use, if construction is not necessary, within that time. Extension of the time period for commencement of the variance may be granted only by the Zoning Board of Appeals, upon written application by the original applicant. Such application for extension must be received by the Zoning Board of Appeals prior to the expiration of the original grant of variance.

### **Section 11.8 Compliance with State Environmental Quality Review Act**

The Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act. (SEQRA).

## **ARTICLE 12 MANDATORY REFERRAL**

### **Section 12.1 Proposed Actions Subject to Referral**

The following proposed actions by the Town Board, the Planning Board or the Zoning Board of Appeals shall be referred to the Cattaraugus County Planning Board for its review and recommendation before final action is taken by the local board, if they meet the geographic requirements in Section 12.2.

1. Adoption or amendment of a zoning ordinance or local law.
2. Issuance of special use permits.
3. Approval of site plans.
4. Granting of use or area variances.
5. Other authorizations which a referring body may issue under the provisions of any zoning, ordinance or local law.

### **Section 12.2 Geographic Criteria**

The proposed actions set forth in Section 12.1 shall be subject to the referral requirements of this article if they apply to a parcel within five hundred (500) feet of any of the following:

1. The boundary of any city, village or town.
2. The boundary of any existing or proposed county or state park or any other recreation area.
3. The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway.
4. The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines.
5. The existing or proposed boundary of any county or state owned land on which a public building or institution is situated.
6. The boundary of a farm operation located in an agricultural district, as defined by Article 25 AA of the agriculture and markets law, except that applications for area variances shall not be referred.

### **Section 12.3 County Planning Board Review**

The Cattaraugus County Planning Board shall have thirty (30) days after receipt of a Full Statement of the Proposed Action, or such longer period as may have been agreed upon by the County Planning Board and the local board, to report its recommendations to the local board. The County Planning Board's report shall include a statement of the reasons for its recommendation.

The County Planning Board shall review any referred action for inter-community or county-wide considerations.

The County Planning Board shall recommend approval, modification or disapproval of the proposed action.

If the County Planning Board recommends modification or disapproval of a proposed action, the local board shall not act contrary to such recommendation except by a vote of a majority plus one of all the members thereof.

#### **Section 12.4 Report of Final Action**

Within thirty (30) days after final action on the proposal, the local board shall file a report of the action it has taken with the County Planning Board. If the local board acted contrary to a recommendation of modification or disapproval, the report shall set forth the reasons for that decision.



## **ARTICLE 13 ADMINISTRATION AND ENFORCEMENT**

### **Section 13.1 Code Enforcement Officer**

13.1.1. This law shall be administered and enforced by the Code Enforcement Officer, who shall be appointed by the Town Board.

13.1.2. The duties of the Code Enforcement Officer include the following:

a Issue Zoning Permits and Certificates of Compliance, when all provisions of this law have been complied with.

b. Upon request by the subject board, review applications and make recommendations to the Planning Board and Zoning Board of Appeals. When requested by the Chair of the respective boards, attend meetings of the Planning Board, Zoning Board of Appeals, and the Town Board.

### **Section 13.2 Zoning Permits**

13.2.1. No building or structure shall be erected, added to or structurally altered until a Zoning Permit therefor has been issued by the Code Enforcement Officer. Except upon a written order of the Zoning Board of Appeals, no such Zoning Permit or Certificate of Compliance shall be issued for any building where said construction, addition, or alteration or use thereof would be in violation of any of the provisions of this law.

13.2.2. There shall be submitted with all applications for Zoning Permits two copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this law.

13.2.3. One copy of such layout or plot plan shall be returned when approved by the Code Enforcement Officer together with the Zoning Permit to the applicant. The second copy of each application with the accompanying plot plan shall become a public record.

13.2.4. All water supply and sewage disposal installations shall conform to the New York State Department of Health and the Cattaraugus County Health Department regulations. No plot plan shall be approved by the Code Enforcement Officer in any area unless such conformity is certified on the plan. Drainage affecting adjacent properties shall be considered by the Code Enforcement Officer before issuing a permit, including possible runoff to said adjacent properties.

13.2.5. When the Code Enforcement Officer is not satisfied that the applicant's proposed development will meet the requirements of this law, he/she shall refuse to issue a Zoning Permit. The applicant may appeal to the Zoning Board of Appeals for a reversal of the Code Enforcement Officer's decision.

13.2.6. A Zoning Permit shall expire one year after the date of issuance, if the applicant fails to implement it.

### **Section 13.3 Certificate of Compliance**

13.3.1. No land shall be occupied or used and no structure hereafter erected, altered or extended and no change in use shall occur until a Certificate of Compliance shall have been issued by the Code Enforcement Officer. The Certificate of Compliance shall state that the structure or proposed use thereof complies with the provisions of this law.

13.3.2. Certificates of Compliance shall be applied for along with the application for a Zoning Permit. Said Certificate of Compliance shall be issued within thirty (30) days after the erection or alteration shall have been approved as complying with the provisions of this law.

13.3.3. The Code Enforcement Officer shall maintain a record of all Certificates of Compliance. Copies of said certificates shall be furnished upon request to any person having a proprietary or tenancy interest in the building affected.

### **Section 13.4 Violations**

13.4.1. Whenever a violation of this law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Code Enforcement Officer. The Code Enforcement Officer shall record each complaint and shall immediately investigate and report thereon to the Town Board.

#### **13.4.2. Procedure for Abatement of Violations**

a. In case any building or structure is erected, altered or converted, or any building, structure or land is used in violation of this law, notification of the violation will be issued in writing by the Code Enforcement Officer. Compliance with the law must be met within the specified period of time.

b. After the specified number of days the Town Board may commence an action to enforce this law. The Town Board may designate the Code Enforcement Officer or any other proper person, authority or official to commence the action.

13.4.3. The provisions of this Article shall not limit the available procedures for enforcement and remedies provided for under the Town Law of the State of New York or any other law.

### **Section 13.5 Penalties**

A violation of this law is an offense, punishable by a fine not exceeding \$350.00 or imprisonment for a period not to exceed six (6) months or both for conviction of a first offense.

Conviction of a second offense, both of which were committed within a period of five (5) years, is punishable by a fine not less than \$350.00 nor more than \$700.00 or imprisonment for a period not to exceed six (6) months, or both.

Upon conviction for a third or subsequent offense, all of which were committed within a period of five (5) years, punishable by a fine not less than \$700.00 nor more than \$1,000.00, or imprisonment for a period not to exceed six (6) months, or both.

Each week's continued violation shall constitute a separate additional violation.

**Section 13.6 Court Review**

Any person or persons, jointly or severally aggrieved by any decision of the Zoning Board of Appeals, the Planning Board or any officer, department, board or bureau of the Town, may apply to the Supreme Court for review by a proceeding under Article Seventy-eight of the civil practice law and rules. Such proceeding shall be instituted within thirty days after the filing of a decision of the board in the office of the Town Clerk.

**Section 13.7 Fees**

A schedule of fees for all permits and applications required by this law shall be established by the Town Board. The fee schedule may be changed from time to time at the pleasure of the Town Board.

## **ARTICLE 14 AMENDMENTS**

### **Section 14.1 Town Board May Amend**

The Town Board may, from time to time, on its own motion, or on petition or on recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this law after public notice and hearings as provided by Town Law.

### **Section 14.2 Review By Planning Board**

Every such proposed amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Planning Board for its report thereon. Referral to the Planning Board shall be made thirty (30) days before the public hearing hereinafter provided for. If the Planning Board shall fail to submit such report within 45 days, it shall be deemed that the Planning Board has approved the proposed amendment or change.

### **Section 14.3 Public Notice**

The Town Board, by resolution adopted at a meeting, shall fix the time and place of a public hearing on the proposed amendments and shall cause notice to be given as follows:

1. By publishing a notice at least ten ( 10) days in advance of such hearing in a newspaper of general circulation in the Town. Such notice shall state the general nature of the proposed amendment in such reasonable detail as will give adequate notice of its contents, and shall name the place or places where copies of the proposed amendment may be examined.
2. A written notice of any proposed change or amendment affecting property within five hundred (500) feet of the boundary of any state park shall be given to the regional state park commission having jurisdiction over such state facility at least ten ( 10) days prior to the date of such public hearing.
3. A written notice of any proposed change or amendment affecting property within five hundred (500) feet of the boundary of any village, town or county shall be given to the clerk of such municipality at least ten ( 10) days prior to the date of such hearing.
4. A written notice shall be posted in two (2) places of business in the Town of Yorkshire.

### **Section 14.4 Public Hearing**

The public hearing shall be held at the stated time and place by the Town Board and shall include the following within its proceedings:

1. A statement of the proposed change, amendment or supplement, either in complete or summary form.
2. An opportunity for all interested persons to be heard in a manner prescribed by the Town Board.

## **Section 14.5 Adoption**

14.5.1. Prior to a vote on the proposed amendment, it shall be referred to the Cattaraugus County Planning Board following the provisions of Article 12 of this law.

14.5.2. Any such amendments may be approved by a simple majority vote of the Town Board, except that any such amendment shall require the approval of at least three-fourths of the members of the Town Board in the event such amendment is the subject of a written protest, presented to the Town Board and signed by:

- a. The owners of twenty (20) percent or more of the area of land included in such proposed change, or
- b. The owners of twenty (20) percent or more of the area of land immediately adjacent to that land included in such proposed change, extending one hundred (100) feet therefrom, or
- c. The owners of twenty (20) percent or more of the area of land directly opposite thereto, extending one hundred (100) feet from the street frontage of such opposite land.

## **Section 14.6 Effective Date of Amendments**

14.6.1. Amendments made to this law, excluding any map incorporated therein, shall be entered in the minutes of the Town Board. Such minutes shall describe and refer to any map adopted in connection with the amendment.

14.6.2. A copy or summary of the amendment, excluding any map incorporated therein, shall be published once in a newspaper having general circulation in the Town. Affidavits of the publication thereof shall be filed with the Town Clerk.

14.6.3. Such amendment shall take effect upon filing in the office of the Secretary of State.

14.6.4. The Town Clerk shall maintain every map adopted in connection with this zoning law and every amendment thereto.

## **ARTICLE 15 RELATIONSHIP WITH OTHER LAWS**

Whenever the requirements of this law are at variance with the requirements of other adopted ordinances, laws, rules or regulations, the regulations which are more restrictive or which impose higher standards or requirements shall govern.

## **ARTICLE 16 EFFECT ON EXISTING AGREEMENTS**

This law is not intended to abrogate any easement, covenant or other private agreement. Where the regulations of this law are more restrictive or impose higher standards or requirements than such easements, covenants or other private agreements, the requirements of this law shall govern. Such private agreements shall not allow what this law prohibits.

## **ARTICLE 17 INTERPRETATION AND SEPARABILITY**

1. Interpretation and application of the provisions of this law shall be held to be minimal requirements, adopted for the promotion of the public health, safety, or general welfare. Whenever the requirements of this law differ from the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.
2. Should any sections or provisions of this law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

## **ARTICLE 18 EFFECTIVE DATE**

The provisions of this law shall take effect immediately upon the filing thereof in the office of the Secretary of State. Date filed: June 25, 2001.