

ZONING REGULATIONS

Town of Lima

March 4, 2010

ZONING
Chapter 250, Town of Lima

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ARTICLE 1: General Provisions

§250-1. Title

This chapter shall be known and may be cited as the “Zoning Ordinance of the Town of Lima.”

§250-2. Authority

Pursuant to the authority and power granted by Chapter 61, Article 16 of the Consolidated Laws, to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of occupancy and lots and parcels of land that may be occupied, the size of setbacks, courts and open spaces, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes and to establish zones or districts in the Town of Lima, the Town Board does ordain the following provisions.

§250-3. Purpose and Intent

- A. Authority. This Zoning Law is adopted pursuant to the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, and Articles 2 and 3 of the Municipal Home Rule Law, to protect and promote public health, safety, convenience, order, aesthetics, prosperity and general welfare of the Town of Lima, and to implement the Comprehensive Plan of the Town. This Zoning Law regulates the location, construction, alteration and use of buildings and structures and the development and use of land within the Town of Lima and for said purposes divides the Town into the Zoning Districts enumerated in Article II.
- B. To these ends, this chapter is designed to:
 - 1. Enhance the appearance of the Town and to guide and regulate the orderly growth, development and redevelopment of the Town in accordance with a well-considered plan so that the Town may realize its potential as a place to live and work, with the most beneficial and convenient relationships among the agricultural, business, and residential areas within the Town and with due consideration to the character of each district and its suitability for particular uses.
 - 2. Protect and manage the rural, scenic, and historic character of the Town.
 - 3. Provide for the preservation of environmentally sensitive areas including wetlands, floodplains, and steep slopes.
 - 4. Encourage the use of sustainable building practices, including provisions for energy and water efficiency.
 - 5. Encourage and support agricultural operations.
 - 6. Promote the viability of existing businesses.
 - 7. Encourage new businesses that are compatible with existing surrounding uses; provide employment for residents; and offer needed goods and services.
 - 8. Encourage the redevelopment and reuse of vacant commercial buildings.

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9. Facilitate the development of a variety of housing choices to meet the needs of all population segments.
10. Facilitate the provision of transportation, water supply, sewage disposal, park and other public facilities as needed by the community.

ARTICLE II: Establishment of Districts

§250-4. Districts created

For the purposes of this chapter the Town of Lima is hereby divided into the seven following classes of districts.

Agricultural Use District	A Districts
Residence Use District	R Districts
General Business Use District	B Districts
Industrial Use District	M Districts
Land Conservation District	L-C Districts
Planned Development District	P-D Districts
Mining, Quarrying and Land Excavation District	Q Districts

§250-5. Zoning Map

The boundaries of these districts are hereby established on a map entitled “Zoning Map of the Town of Lima” which map, together with all explanatory matter thereon, is hereby adopted by reference and is declared to be a part of this chapter.

§250-6. District Boundaries

Where a district boundary line, as appearing on the Zoning Map, divides a lot or land in single ownership as existing at the time of this enactment, the use authorized on and the district requirements applying to the less restricted portion of the property shall be construed as extending into the remaining portion of the property beyond the district boundary lines for a distance not exceeding 35 feet. Otherwise, unless shown to the contrary on the Zoning Map, the boundary lines of districts are the center lines of streets and alleys or such lines extended, railroad right-of-way lines, the center lines of creeks and waterways, the corporate limits line as it existed at the time of the enactment of this chapter.

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§250-7. Scope

No building, structure or land shall hereafter be used and no building, structure or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified to the district in which it is located, except as hereinafter provided.

ARTICLE III: Terminology

§250-8. Word Usage

The present tense shall include the future, the singular number shall include the plural and the plural the singular. The word “shall” is always mandatory.

§250-9. Definitions

Certain words and terms used in this chapter are defined for the purposes thereof as follows:

ADULT BOOKSTORES - A business enterprise which has a substantial portion of its stock-in-trade printed, visual or audio material of any kind or other novelties which are characterized by their emphasis on specified anatomical areas or specified sexual activities, including any such establishment having a substantial area devoted to the sale and display of such material. For purposes of this definition, “substantial portion” or “substantial area” shall mean 25% or more of any of the following: **(Added 9-7-1995)**

- A. The number of different titles or kinds of such merchandise;
- B. The number of copies or pieces of such merchandise;
- C. The amount of floor space devoted to the sale and display of such merchandise; or
- D. The amount of advertising which is devoted to such merchandise either imprints or otherwise promoted via the broadcast media

ADULT CABARET – A business enterprise which serves food or beverages for consumption on the premises, with or without carry-out service, which features entertainers or waiters and/or waitresses who display any specified anatomical area or who depict, describe or simulate specified sexual activities. **(Added 9-7-1995)**

ADULT ENTERTAINMENT ESTABLISHMENT – Any business enterprise which is other than an adult bookstore or adult cabaret which has presentations characterized by an emphasis on the description or depiction of specified anatomical area or specified sexual activities during live shows, motion picture films, videotapes or sound recordings presented to an audience of one or more individuals. Also included in this definition is any business enterprise other than a bona

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vide medical or health serve establishment requiring a client or customer to display any specified anatomical area. **(Added 9-7-1995)**

AGRICULTURE – The production of crops or plants or vines and trees.

AGRICULTURAL ACCESSORY PRODUCTS – Items, whether natural, processed or manufactured, which are directly linked to and promote the use and sale of agricultural products grown upon the premises. **(Added 6-20-1991)**

AGRICULTURAL DISTRICT, COUNTY – Agricultural District #2, as designated by Livingston County pursuant to NYS Agricultural & Markets specifications.

ALLEY – A public way having a right-of-way width of 20 feet or less.

ANIMAL HUSBANDRY – The keeping, grazing, feeding and care of animals other than household pets.

ANIMAL HOSPITAL OR VETERINARY CLINIC -- The premises or buildings used for the diagnosis, treatment or other care of the ailments of domesticated, household or farm animals, which may include related facilities, such as laboratories, offices and temporary quarters for such animals.

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

AREA, LAND – Refers to the total amount of acreage or aggregate square foot measurement produced by calculation inclusive of the lands underlying an adjacent street, road or highway up to the center line or said street, road or highway, provided that the most recent deed of record validly conveys the land lying between the center line and the edge of the public right-of-way of said street, road or highway. In all other instances, the area calculation shall exclude the land underlying the space between the edge of the public right-of-way and the center line of said street, road or highway. **(Amended 8-4-1994)**

AUTO COURT – See “motel”.

AUTOMOBILE SALES AREA - A premise including open areas other than a street or way and showrooms enclosed within a building used for the display or sale of new or used automobiles, trucks, cargo trailers, boats, snowmobiles, all-terrain vehicles, motorcycles and motorized bicycles.

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AUTOMOBILE WRECKING and/or AUTOMOBILE GRAVEYARDS – The dismantling, wrecking or burning of used automobiles or the storage, sale or dumping of dismantled, partially dismantled or wrecked vehicles or their parts.

AWNING — An impermanent structure, other than a roof, attached to, supported by and projecting from a building and providing protection from the elements.

BAR or TAVERN – An establishment licensed under the laws of New York State for the sale of alcoholic beverages and their consumption on the premises.

BASEMENT – The story partly underground but having at least ½ of its height above the average outside ground level.

BED AND BREAKFAST INN - A single family residence operated as an inn entirely within the principal residence, where lodging, with or without meals, is provided for not more than ten transient paying guests and where no cooking or dining facilities are provided in individual bedrooms.

BILLBOARD – See “sign”.

BLOCK – The length of a street between two street intersections. Where street intersections are at intervals greater than 1,200 feet, 1,200 feet shall be considered the length of block for purposes of this chapter.

BOARDINGHOUSE and/or ROOMING HOUSE – A dwelling, other than a hotel or motel or tourist home (bed & breakfast inn), wherein more than three people are sheltered and/or fed for profit.

BUILDING – Any structure constructed or used for residence, business, industry or other public or private purposes or accessory thereto, including tents, lunch wagons, dining cars, mobile homes, billboards, signs and similar structures, whether stationary or movable.

BUILDING, ACCESSORY – A building, the use of which is customarily incidental to that of a principal building and which is located on the same lot as that occupied by the principal building.

BUILDING, ACCESSORY USE OF – A use customarily incidental to the use of a principal building.

BUILDING, ALTERATION OF – Any addition to a building or any change in use from one district classification to another or removal of a building from one location to another.

BUILDING, HEIGHT OF – The vertical distance measured from the average elevation of the finished lot grade at the front of the building to the highest point of the ceiling of the top story in

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the case of a flat roof; to the decline of a mansard roof; and to the mean height level between the eaves and ridge of a gable, hip or gambrel roof.

BUILDING LINE, FRONT – The line of parcel or lot abutting the street line, meaning road frontage. In the case of a corner lot, any building line nearest to the street line shall be considered a front building line. Notwithstanding the method of calculation of area authorized by this chapter, the location and definition of the front building line shall be determined from the point such lot or parcel fronts upon or abuts the edge of the public right-of-way or street line and not from the center line of the appurtenant road. **(Amended 1-19-1978; 8-4-1994)**

BUILDING OR STRUCTURE, NONCONFORMING – An established building or structure lawfully existing prior to and at the time of the adoption of this chapter which, because of its inherent nature of construction, does not conform to and with the provision of this chapter or any amendment to this chapter for the district in which it is located. **(Amended 11-6-1997 by L.L. No. 3-1997)**

BUILDING PRINCIPAL – A building including covered porches, in which is conducted the principal use of the lot on which it is situated. In any residence district any dwelling shall be deemed the principal building on the lot on which the same is situated.

CABIN, HUNTING AND FISHING – A structure with accommodations for living and sleeping designed for seasonal occupancy and having a total floor area of less than 400 square feet.

CAMP – Any area on which are located two or more cabins, tents or tent floors, camp or travel trailers, shelters, houseboats or other accommodations of a design or character for seasonal or other more or less temporary living purposes, whether or not such structures are actually occupied seasonally or otherwise.

CAR WASH – An establishment for the washing of motor vehicles as a principal use.

CARNIVAL – An amusement show, usually traveling from place to place having sideshows, ferris wheel, merry-go-round, etc.

CELLAR – A portion of a building having more than ½ of its height below the average outside ground level.

CEMETERY – Land used or intended to be used for the burial of dead human beings and dedicated for cemetery purposes, including columbarium's, crematories, mausoleums and mortuaries when operated with and within the boundary of such cemetery.

CENTER LINE OF STREET OR ROAD – A line midway between and parallel to two street or road property lines or as otherwise defined by the Planning Board.

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CHURCH OR OTHER PLACE OF WORSHIP – Any building wherein persons regularly assemble for religious worship which is used only for such purpose and those accessory activities as are customarily associated therewith; includes temple, synagogue, mosque or other similar place of worship.

CIRCUS – An exhibition of wild animals, acrobatic feats, together with sideshows and vending concessions.

CLINIC, DENTAL – A structure designed for the practice of dentistry in which nonresident patients are treated.

CLUBHOUSE – A building to house a club or social organization not conducted for profit and which is not an adjunct to or operated by or in connection with a public tavern, cafe or other public place.

CONSTRUCTION, FIRE-RESISTANT – That type of construction in which the walls, partitions, column, floor and roof are noncombustible with sufficient fire resistance to withstand the effects of a fire and prevent its spread from story to story.

COURT – An unoccupied open space, other than a yard. An outer court is one that extends to the street or to the front or rear yard. An inner court is any other court.

COVERAGE – That percentage of the lot covered by the building area.

DORMITORY – See “fraternity house”.

DRIVE-IN USE – A drive-in use includes drive-in outdoor theaters, refreshment stands, restaurants, banks and the like where patrons enter the premises and are served or entertained in automobiles. Deposit and pickup service shall not be considered drive-in businesses as defined herein.

DRIVEWAY – Land situated on a lot used or intended to be used to provide access to it by vehicular traffic.

DUMP – Land used for the disposal by abandonment, dumping, burning or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.

DWELLING, MULTIFAMILY – A dwelling or group of dwellings on one lot containing separate living units for three or more families, but which may have joint services or facilities, or both.

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DWELLING, ONE-FAMILY – A detached building designed for the use of single household, including one or more persons living as a family and wherein not more than three people are sheltered and/or fed for profit.

DWELLING, SEMIDETACHED – A detached building containing two dwelling units separated by a party wall, each having one side yard.

DWELLING, TWO-FAMILY – A building having two side yards and accommodating but two families, with one family living over the other.

DWELLING UNIT – Any dwelling or portion thereof used or intended to be used by one family and providing complete housekeeping facilities therefore.

EDUCATION INSTITUTION – A college or university giving general academic instruction. Included within this term are areas or structures for administration, housing of students and faculty, dining halls and social or athletic activities when located on the institution's land that is not detached from land where classroom facilities are maintained. This term shall include elementary school, secondary school and vocational school.

FACTORY – A building or group of buildings, usually with equipment, where goods are manufactured.

FAIR – An occasional or periodic competitive exhibition of farm products and livestock, usually accompanied by amusement features and for which an admission fee is charged.

FAMILY – One or more persons occupying a dwelling unit as a single, nonprofit housekeeping unit who are living together as a bona fide stable and committed living unit, being a traditional family unit or the functional equivalent thereof, exhibiting the generic character of a traditional family. **(Amended 11-61997 by L.L. No. 3-1997)**

FARM – Any tract of land comprising three or more acres on which agricultural products, animal products or animal increase with a value of \$150 or more are produced annually. It excludes fur farms, cage-type poultry houses, public stables and dog kennels.

FARM MARKET – A permanent structure, with or without appurtenant open display area, from which agricultural produce grown upon the subject premises and limited agricultural accessory products may be sold. **(Added 6-20-1991)**

FARM STAND – A temporary structure or defined area, from which agricultural produce grown upon the premises may be sold in season. **(Added 6-20-1991)**

FLAG LOT – Any lot or parcel of land located within the Town of Lima that is deficient in the required minimum frontage lot width upon a dedicated road, as measured in feet, as may be

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called for in this chapter, such that the lot presents a narrow access way (the flag “pole”) leading to the buildable rear portion of the lot (the “flag”), but otherwise contains sufficient total land area and dimensions to authorize issuance of a building permit for the use sought for said parcel and permitted within the zoning use district. **(Added 12-3-1998)**

FLOOR AREA (of a building) – The sum of the gross horizontal area of the several floors, including the basement of a building and its accessory buildings on the same lot, and including the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

FLOOR AREA RATIO – The floor area of a building divided by the area of the lot which it occupies.

FLOOR AREA, USABLE – Any floor area within the outside walls of a dwelling building exclusive of areas in cellars, furnace rooms, unfinished attics, garages, open carports, breezeways, open porches and accessory buildings. All dimensions shall be measured between interior faces of walls.

FRATERNITY HOUSE (including **SORORITY HOUSE**, **DORMITORY** and **RESIDENCE HALL**) – A facility used for housing, with or without dining facilities, of students attending an educational institution as defined herein and which is approved as a residence for its students by the aforementioned educational institution.

GARAGE, MOTOR VEHICLE REPAIR – Any premises used for the repair of motor vehicles, including those operations not permitted at motor vehicle service stations.

GARAGE, PARKING AND STORAGE – A garage used exclusively for the parking and storage of motor vehicles and where such vehicles are not serviced or repaired.

GARAGE, PRIVATE – A garage not conducted as a business or used for the storage space for more than one commercial vehicle which shall be owned by a person residing on the premises. The rental of storage space for more than two passenger cars or any commercial vehicles shall not be permitted in a private garage.

GRADE, ESTABLISHED – The elevation of the center line of the streets as officially established by the Town, county or state highway authorities.

GRADE, FINISHED – The completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs relating thereto.

HOME, OCCUPATION – Any occupation or profession, including home professional offices, commercial or industry that is conducted as an accessory use to a dwelling.

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HOME OCCUPATION, MINOR – A home occupation that meets the criteria of §250-88.C. and is permitted as an accessory use to a dwelling.

HOME OCCUPATION, MAJOR – A home occupation that meets the criteria of §250-88.D. and requires a special use permit.

HOSPITAL – An establishment for temporary occupation by the sick or injured for the purpose of medical diagnosis and treatment, including sanitarium, and shall be limited to the treatment or other care of humans.

HOTEL – A building or group of buildings in which there are twelve or more rental sleeping rooms and which may also include dining rooms, kitchens, serving rooms, ballrooms and other facilities and services intended primarily for the accommodation of its patrons.

INDUSTRIAL AGRICULTURAL ENTERPRISE – The intensive housing or feeding of animals carried on as an industry, on an area of less than three acres where less than 8% by weight of the feedstuffs consumed by and of the litter used for the animals is grown on the premises.

INDUSTRY – The term industry includes the entire range of economic activity and, as applied to specifics, i.e., manufacturing, wholesale, retail, services, etc. shall have the meaning set forth in the Standard Industrial Classification Manual, published by the Executive Office of the President, Bureau of the Budget – 1957.

JUNKYARD – A lot, land or structure or part thereof over 200 square feet in area, used primarily for the collecting, storage and/or sale of wastepaper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof, except as accessory to a principal agricultural or industrial use of the lot. Two or more unregistered motor vehicles shall be deemed to constitute a junkyard unless each vehicle is enclosed in a building. **(Amended 11-6-1997 by L.L. No. 3-1997)**

KENNEL – Any establishment, including cages, dog runs and structures, wherein more than three dogs which are over six-months old are harbored.

LAUNDRY, COIN-OPERATED, DRY CLEANER – A business premises equipped with individual clothes-washing and drying and/or cleaning machines for the principal use of retail customers.

LOT – A piece, parcel or plot of land occupied or to be occupied by a principal building and its accessory building or buildings, and including the yards and other open spaces required by this chapter.

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LOT, CORNER – A lot fronting upon more than one road, street, alley or highway (or as authorized, private lane or street), such that one angle of said lot is actually formed by the intersection of two rights-of-way and which lot has an interior angle of less than 135° at the intersection of two street lines. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve at points beginning with the lot or at the points of intersection of the side lot lines with the street line intersect at an interior angle of less than 135°. **(Amended 8-4-1994)**

LOT DEPTH – The measured distance between the rear line of the parcel or lot and the front line thereof, which said front line shall be determined by references to the most recent definition of the specific parcel's boundary lines (herein otherwise defined as "lot of record"), which said front line shall be either the center line of the abutting road, street or highway or the edge of the public right-of-way or street line (or, as authorized, private lane or street), whichever is the greater. **(Amended 8-4-1994)**

LOT, INTERIOR – A lot other than a corner lot.

LOT LINES – The lines that bound a lot as defined herein.

LOT OF RECORD – Any lot or parcel which has been properly and validly established as such by survey, record or deed duly filed or recorded in the office of the Livingston county Clerk. For purposes of determining area or lot depth in connection with the interpretation of this chapter, the most recent survey, record or deed filed or recorded in the office of the Livingston County Clerk shall be deemed to be of primary pertinence to the determination of the appropriate lot or boundary line of the lot of record. **(Amended 8-4-1994)**

LOT WIDTH – The distance between the side lot lines measured along the front yard requirement prescribed by this chapter.

MAJOR EXCAVATION, GRADING OR FILLING – Any operation (other than in connection with foundations for a structure or highway construction) involving:

- A. A volume of earth movement exceeding the average of one cubic foot per square foot of lot area or 1,000 cubic yards, whichever is the lesser; or
- B. A change in ground elevation from previously existing grade exceeding 10 feet.

MOBILE HOME – A portable structure for which the State of New York Department of Motor Vehicles will issue a license to move on any public way, having a usable floor area of not more than 1,100 square feet or not less than 400 square feet, with or without its own motive power, equipped for or used for living purposes, provided with complete sanitary facilities and mounted on wheels or designed to be mounted and transported or transported on a flatbed trailer. No

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attachment to real property or other change made in structure originally designed or constructed as a mobile home shall be deemed to transform such a structure into a dwelling unit as defined herein.

MOTEL – A motel is a building or group of buildings, whether detached or in connected units, used as individual sleeping units designed primarily for transient automobile travelers. A motel, motor court or auto court shall contain not less than eight rental units and be provided with off-street parking facilities as required by this chapter. Restaurants, tearooms or similar facilities, together with taverns, swimming pools and meeting rooms located on the same lot and operated in conjunction with the motel, shall be considered as accessory uses. The term motel includes auto court, tourist court, motor lodge and similar uses.

MOTOR FREIGHT TERMINAL – Any premises used by a motor freight company regulated by the Public Service Commission of New York and/or the Interstate Commerce Commission as a carrier of goods, which is the origin and/or destination point of goods being transported for the purpose of storing, transferring, loading and unloading such goods.

MOTOR VEHICLES SERVICE STATION – Any area of land, including structures therein, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof, by any means, body and fender work or the dismantling or replacing of engines.

NURSERY SCHOOL – A school designed to provide daytime care or instruction for two or more children from two to five years of age inclusive, not related to the caregiver, and operated on a regular basis for compensation.

NURSING OR CONVALESCENT HOME – An establishment where persons are housed or lodged and furnished with meals and nursing care for hire.

OCCUPANCY – The utilization of a building, structure or land.

OCCUPANCE, SEASONAL – Occupancy for a period not exceeding six months during any one calendar year.

OPEN SPACE – An unoccupied space open to the sky required by the terms of this chapter.

OPEN STORAGE – Land or space artificially surfaced or in natural state, situate outside any authorized enclosure or fencing exclusively designed for storage and permitted by the Planning Board, which said land or space is used for the storage, stockpiling, keeping or distribution of wares, goods, supplies, equipment or the like, provided that such wares, goods, supplies,

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equipment or like materials are both necessary and directly related to the principal permitted use of the property. **(Amended 11-6-1997 by L.L. No. 3-1197)**

OUTDOOR RECREATION FACILITY -- Land developed by a private sponsor with facilities for passive recreation, e.g., trails and picnic areas, and/or with facilities for active outdoor individual or organized recreation, e.g., ball fields, tennis courts, swimming pools, ski trails, and ice-skating areas. This definition includes golf courses, riding stables, sportsmen's clubs, hunting and/or fishing clubs, and open air theaters or drive-in theaters. This definition does not include arenas, stadia or other facilities for the accommodation of more than 200 spectators, campgrounds, or racetracks or other facilities featuring activities involving motorized vehicles.

OUTDOOR RECREATION FACILITY, PRIVATE, NON-COMMERCIAL - Outdoor recreation facilities, operated by a non-profit organization and open only to bona fide members of such non-profit organization.

OUTDOOR RECREATION FACILITY, PUBLIC - Outdoor recreation facilities or other entertainment facilities operated as a non-profit enterprise by the Town of Lima, any other governmental entity or any not-for-profit organization and open to the general public. This definition includes areas used for recreation or conservation purposes, such as picnic areas; swimming pools and beach areas; scenic overlooks and preservation areas; camping grounds and campsites; hiking trails; riding stables and trails; playgrounds; stadiums and arenas for games and sports; amphitheaters and other performing arts facilities; sites for historical monuments and markers; and related service buildings, including those for dining and refreshments, roads, trails, automobile parking areas and signs of an informational, directional and identificational nature.

PARKING SPACE – For the purpose of computing the number of parking spaces available in a given area, the ration of 300 square feet per parking space shall be used.

PORCH, OPEN – A porch open on two or three sides except for wire screening. A porch shall not be considered open if enclosed by either permanent or detachable glass sash. A structure having a driveway running to it, under it or through it shall not be considered to be an open porch.

POULTRY HOUSE, CAGE-TYPE – A structure in which 5,000 or more birds are housed, one or more to a cage, in meshwork floored cages elevated above the main floor of the structure and in which all normal processes relating to live birds are accomplished without removing the birds from the cage.

QUARRY, SANDPIT, GRAVEL PIT, TOPSOIL STRIPPING – A lot or land or part thereof used for the purpose of extracting stone, sand, gravel or topsoil for sale, as an industrial operation, and exclusive of the process of grading preparatory to the construction of a building for which a building permit has been issued or highway construction.

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RECREATION, COMMERCIAL INDOOR -- A building, structure or portion thereof used principally for indoor recreation, sports or leisure activity, conducted as a commercial enterprise or otherwise as a principal use. The term includes, but is not limited to, billiard parlors, bowling halls, live or motion-picture theaters, amusement or video game centers, indoor sports facilities, gymnasiums, physical fitness centers, martial arts schools and dance schools. The term does not include adult entertainment establishments, special events facilities or indoor recreation as a community facility or as an accessory use for an institutional use, membership club or nonprofit organization.

RESTAURANT – A business which serves food or beverages and which principally provides for the consumption of said food or beverages, with or without carry-out service. For purposes of this section, restaurants shall include party houses, bars, taverns, lounges, nightclubs and other similar establishments but shall not include adult cabarets. **(Added 9-7-1995)**

RIDING ACADEMY – Any establishment where horses are kept for riding, driving or stabling for compensation or incidental to the operation of any club, association, ranch or similar establishment.

SANITARIUM, SANITORIUM – A private hospital, whether or not such a facility is operated for profit.

SCHOOL, ELEMENTARY – Any school having regular sessions with regularly employed instructors who teach those subjects that are fundamental and essential in general education under the supervision of the State of New York or a lawfully constituted ecclesiastical governing body or a corporation meeting the requirements of the state.

SCHOOL, SECONDARY – The same as elementary school, except secondary education is provided.

SCHOOL, VOCATIONAL – Any school having regular sessions with regularly employed instructors who, as principal activity, provide training in a trade or vocation and teach those subjects that are fundamental and essential in elementary or secondary education under the supervision of the State of New York or a lawfully constituted ecclesiastical governing body or a corporation meeting the requirements of the state.

SETBACK – An unoccupied space open to the sky on the same lot with a building or structure. Where used to describe a required open space in the front, rear or side of a building, the term “setback” shall be interchangeable with the term “yard.”

SETBACK, FRONT - An open space extending across the entire width of the lot or parcel between the building line or main front wall of the principal structure closest to the right-of-way line and the street line (as herein defined.) There shall be no extension of any part of a building

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within said front yard other than steps, open porches, decks, eaves, cornices or like architectural features open to the sky.

SETBACK, REAR – An open space extending across the entire width of the lot between the rear line of the lot and a line parallel to the rear line of the lot at a distance from the rear line of the lot specified for the zoning district in which the lot is situated and unoccupied except for accessory buildings and open porches which in the aggregate shall occupy not more than 35% of the area.

SETBACK, SIDE – An open unobstructed space on the same lot with a principal building between the principal building and the side line of the lot and extending though from the front yard to the rear yard, into which space there shall be no extension of building parts other than eaves with an overhang of not more than two feet, rainwater leaders, window sills and other such fixtures and open steps for a distance not exceeding four feet.

SEWAGE SLUDGE – Any solid, semisolid or liquid waste generated or deposited from municipal, private or publicly held corporate sewage treatment plants. **(Added 5-19-1990)**

SIGN – Any structure or part thereof attached thereto or pointed or represented thereon which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation, but not including the flag, pennant or insignia of any nation, state, city or other political unit or of any political, education, charitable, philanthropic, civic, professional, religious or like organization or of the property thereof.

SIGN, AWNING — Any visual message incorporated into an awning or a marquee.

SIGN, BUSINESS – A sign which directs attention to a business, profession or industry located on the premises where the sign is displayed, to the type of products sold, manufactured or assembled and/or to service or entertainment offered on said premises.

SIGN, COMMERCIAL SPEECH — Any sign erected that identifies or pertains to:

- (1) A commercial enterprise; or
- (2) A product, commodity or service offered by a commercial enterprise.

SIGN, IDENTIFICATION – A sign used to identify the individual or organization occupying the premises or the name of the building or structure in connection with which the sign is displayed.

SIGN, NONCOMMERCIAL SPEECH — Any sign, other than a commercial speech sign, as defined herein.

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SIGN, REAL ESTATE – A sign advertising property on which it is located, or a building thereon, for sale, rent or lease.

SIGN, SPECIAL EVENT – A temporary sign giving notice of a special event or activity of not more than quarterly occurrence.

SIGN, WALL — Any sign painted on, or attached, parallel to the wall facing of a building and projecting not more than six inches.

SIGN, WINDOW — A sign affixed on or located with respect to a window fronting a public way that is visible from the public way.

SORORITY – See “fraternity house.”

SPECIFIED ANATOMICAL AREAS (Added 9-7-1995) Included in this term are the following:

- A. Unless completely and opaquely covered, human genitals, pubic region and buttocks; and
- B. Even if completely and opaquely covered, male genitals in a discernibly turgid state.

SPECIFIED SEXUAL ACTIVITIES (Added 9-7-1995) – Any touching of the genitals, pubic areas or buttocks of the human male or female or the breasts of the female, whether clothed or unclothed, alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

SPORTSMEN’S CLUB – A facility, whether open to the public or limited to members of a group, which offers such activities as game hunting, fishing, trap or skeet shooting, target shooting, target practice, game farms, and related uses such as assembly halls or sales of bait or equipment. The term includes rod & gun clubs, archery clubs, air rifle clubs, and hunting and fishing clubs. Sportsmen’s clubs are included within the definition of “Outdoor Recreation Facility.”

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

STABLE, PUBLIC – A building in which horses are kept for remuneration, hire or sale.

STORY – That part of a building included between any floor, other than a cellar floor, and the floor or roof next above.

STREET – Any public way dedicated to public travel, greater than 20 feet in width.

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STREET LINE – A street line is the right-of-way line of a street as indicated by dedication or by deed or record. In every instance, street line shall mean the line of a lot or parcel between side lot lines as measured and located from the edge of the public right-of-way and not the center line of said right-of-way. **(Amended 8-4-1994)**

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

STRUCTURE, NONCONFORMING – See “building or structure, nonconforming.”

SWIMMING POOL – Any body of water (excluding natural bodies of water fed by rivers, springs, streams or brooks) or receptacle for water having a depth at any point greater than two feet, used or intended to be used for swimming or bathing and constructed, installed or maintained in or on the ground outside any building.

TAVERN – See “bar or tavern.”

THEATER – A building or part of a building devoted to presenting entertainment on a paid admission basis.

THEATER, DRIVE-IN OUTDOOR – Open land with its appurtenant facilities devoted to the showing of motion pictures to patrons seated in automobiles.

TOURIST HOME – See “home, tourist.”

TRAILER, BOAT – A vehicle designed exclusively for the transportation of one boat of less than ten-foot beam and twenty-four-foot length.

TRAILER, CAMP OR TRAVEL – A vehicle or portable structure not over 250 square feet in floor area, equipped but not regularly used for sleeping, but which may not have sanitary facilities.

TRAILER, CARGO – A vehicle, not over 70 square feet in floor area, used for the hauling of cargo.

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

USE, ACCESSORY – A use of land or a portion of the principal building customarily incidental to the actual principal use of the land or building and located on the same lot with such principal building.

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USE, NONCONFORMING – An established use of a building or structure or use of land lawfully existing prior to and at the time of the adoption or amendment of this chapter that does not conform with the permitted use provision of this chapter as they apply to the district in which the building, structure or land is located.

VEGETATIVE AGRICULTURAL PRODUCTS – Products grown on a farm, such as crops, plants, vines and trees; items which are generally sold without the need for refrigeration.

WINDMILL – A structure or device, whether freestanding or mounted on another structure, which is generally intended to operate for the purpose of capturing and utilizing the force of wind. **(Added 7-1-1999)**

YARD (See SETBACK)

YARD, FRONT – (See SETBACK, FRONT)

YARD, REAR (See SETBACK, REAR)

YARD, SIDE (See SETBACK, SIDE)

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ARTICLE IV: Agricultural Use Districts A

§250-10. Purpose

The Agricultural Use Districts A are established primarily for farm and rural residential uses in areas where it appears that the intermingling of farm and residential uses is desirable but wherein it is not contemplated that public sewage disposal facilities will be provided in the foreseeable future.

§250-11. Permitted Uses (Amended 10-9-1982; 3-1-2001; 1-6-2005)

In Agricultural Use District A, all site and construction plans, except for single-family dwellings and their accessory structures and agricultural structures, and excepting certain barns or agricultural buildings located upon parcels of 10 or more acres and conforming to the requirements set forth in §250-14E of this chapter, must be approved by the Planning Board in accordance with Article XIII hereof.

No building or land shall be used and no building or other structure shall be built, altered or erected for any purpose other than that of:

- A. A one-family dwelling, including the following accessory uses and buildings:
 - (1) Accessory use of building as defined herein.
 - (2) Keeping of not more than three transient roomers and boarders.
 - (3) Outdoor storage of not more than one each of the following: boat, boat trailer, camp trailer, or cargo trailer owned for personal use by a resident on the premises.
 - (4) Private garage or open parking for operative passenger vehicles of person visiting or residing on the premises.
 - (5) Playhouse, toolhouse or garden house.
 - (6) Private swimming pool not operated for gain.
 - (7) Private stable for not more than two horses kept for the use of the resident(s) of the dwelling located upon the parcel and not operated for gain, as further regulated in this chapter.
- B. Agriculture as defined herein.
- C. Animal husbandry as defined herein.

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- D. Farm as defined herein, including farmhouse together with customary farm buildings, farm water supply, conservancy and fire-protection ponds.
- E. Public utilities installation, including electric transmission lines.
- F. Public and private parks.
- G. Playgrounds.
- H. Golf courses.
- I. Camps, limited to seasonal occupancy as defined herein and subject to the requirements of **§250-16**.
- J. Hunting and fishing cabins, subject to the requirements of **§250-15**.
- K. Rod and gun clubs.
- L. Open storage.
- M. Other uses as provided by §250-72 (Signs) and §250-74 (Temporary uses and structures).
- N. A barn or agricultural building, irrespective of the location or prior construction of a dwelling on the parcel of land to be improved, provided that such building is used exclusively by the owner of the parcel on which the barn or agricultural building is located, and such use is limited to agricultural activities such as production or storage of crops or storage of agricultural equipment, or private nonagricultural storage by and for the owner of the parcel only, and not operated for or by others for gain as further regulated in this chapter in §250-14E.
- O. The following uses permitted with a special use permit subject to the procedures and criteria in §250-65:
 - 1. Airfield, private.
 - 2. Animal hospital or Kennel: not less than 200 feet from any property line.
 - 3. Carnival, Circus or Fair: subject to the provisions of §250-86.
 - 4. Cage-type poultry house: subject to the provisions of §250- 91.
 - 5. Cemetery, Crematorium or mausoleum.
 - 6. Church or parish house.

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7. Clubhouse, as herein defined, without facilities likely to occasion a nuisance in a residential neighborhood by reason of noise or other objectionable features.
8. Educational institution, including Nursery School, Primary School, Secondary School, or Vocational School.
9. Electric substation, gas district governor station, telephone exchange or other public utility building, structure or use, except a business office, storage yard, repair shop or facilities for the manufacture or storage of illuminating gas.
10. Radio or television transmission facilities and the customary appurtenances.
11. Nursing home.
12. Hospice
13. Senior housing
14. Industrial agricultural enterprise: not less than 200 feet from any property line.
15. Mobile home park: conforming to the requirements of §250-69.
16. Two-family and semidetached dwellings; minimum lot area per dwelling unit 10,500 square feet.
17. Municipal, county, state or federal government use or building.
18. Public parks
19. Private athletic field, private swimming pool or other recreation facility not operated for profit.
20. Private commercial automobile parking lot on land directly abutting a General Business District B at the side or rear, provided that no part of such lot extends more than 400 feet beyond the boundary line of such business district or extends into a front setback or extends closer to the side line of a residential lot than 50 feet, and provided that wherever abutting upon other than commercial property, the parking lot is to be densely planted with trees and shrubbery for a depth of not less than 25 feet.
21. Sand and gravel: noncommercial – subject to the requirements of §250-54.
22. Riding academy.

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23. Stable, public or private, except as a private stable may be allowed as of right as set forth in §250-14 of this chapter. **(Amended 3-1-2001)**
24. Tourist home.
25. Sales and service of agricultural machinery, which special exception shall further require the approval of the Town Board after public hearing and may be subject to conditions imposed by the Zoning Board of Appeals and/or Town Board. **(Added 2-1-1990)**
26. Noncommercial wind energy systems, subject to the requirements of §250-66.

§250-12. Prohibited Uses (Added 5-17-1990; amended 11-6-1997 by L.L. No. 3-1997)

Any uses not specifically permitted shall be prohibited.

§250-13. Area, Setback and Height Restrictions

- A. Area per establishment and lot dimensions. The minimum area per establishment shall be 2.5 acres, and the minimum width of the lot at the front building line shall be 200 feet, unless smaller lots are approved by the Planning Board as part of a conservation subdivision.
- B. Front setbacks. No part of a building, other than an open porch, steps, eaves and cornices and similar fixtures, shall extend nearer to the street line than 50 feet or nearer to the center line of a street than 75 feet, whichever distance requires the greater setback from the street line.
- C. Rear setbacks. There shall be a rear setback of not less than 50 feet.
- D. Side setbacks. There shall be two side setbacks each having a width of not less than 20 feet.
- E. Height. For each foot that the height of a building or other structure exceeds 35 feet, the total width of the two side yards shall be increased by two feet.

§250-14. Private Garages, Barns, Stables and Other Accessory Buildings

- A. No detached barn, private garage or other accessory building shall be placed closer to a side or rear property line than 10 feet, closer to the street line than 10 feet to the rear of the rear main wall of the principal building and, on a corner lot, closer to the street line of the side street than 90 feet.

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- B. Allowable exceptions to the above requirements for accessory buildings to be built on steep slopes are as provided by §250-67.
- C. A private garage or barn may not be used as a dwelling except by a person or persons employed on the premises. **(Amended 11-3-1988)**
- D. A private stable shall be allowed as of right in an Agricultural Use District A, subject to compliance with the following requirements and standards, if such use is incidental to a private dwelling and is used strictly as an accessory use to the dwelling. **(Added 3-1-2001)**
- (1) The private stable may be used to house no more than two horses kept exclusively for the use of the residents for the dwelling and their nonbusiness guests. Any business use of the stable, including but not limited to the boarding of horses or private riding lessons, shall require the owner to apply for special use permit for such use, which special use permit may be authorized or withheld subject to the discretion of the Zoning Board of Appeals as set forth in §250-65 and other applicable sections of this chapter.
 - (2) The parcel upon which the primary dwelling and stable are to be located shall contain at least five acres in total area.
 - (3) A private stable shall not be located nearer than 75 feet to any lot line, nor shall it be located less than 250 feet from any private dwelling, including any dwelling located on any other lot or parcel not owned by the owner of the parcel upon which the private stable is to be located. Said private stable shall not be located closer to the public street or road than the principal dwelling located on the lot.
- E. A barn or agricultural building shall be allowed as of right in an Agricultural Use District A on a parcel of land although said parcel is not improved by a dwelling or residence, subject to compliance with the following requirements and standards: **(Added 1-6-2005)**
- (1) The barn or agricultural building must be located on a parcel of land of at least 10 acres in area, with road frontage of at least 500 feet. Such parcel may be preexisting or may be subdivided from a larger parcel for this purpose.
 - (2) A building permit must be applied for and obtained by the owner of record, and the structure to be constructed must conform with all applicable building code regulations.

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(3) The barn or agricultural building must be located on the parcel of land such that the front wall of such building shall be set back at least 400 feet from the center line of the road upon with the parcel fronts, and the side and rear walls of such structure shall be set back at least 200 feet from the side and rear lot lines of said parcel. These setbacks are prescribed so as to minimize the impact or effect that such barn or agricultural building may have in connection with adjacent residential use authorized as of right in an Agricultural Use District A.

(4) Use.

(a) The use of such barn or agricultural building to be constructed shall be strictly limited to:

[1] Agricultural activities such as production or storage of crops, or storage of agricultural equipment.

[2] Private nonagricultural storage by and for the owner of the parcel only, and not operated for or by the owner or others for gain or in furtherance of a business use not of an agricultural nature.

(b) Any other use of such barn or agricultural building shall be strictly prohibited as a violation of the Lima Town Code. Use of such barn or agricultural building as a storage facility for hire or for profit or for nonagricultural use by parties other than the owner of such structure shall be expressly prohibited.

§250-15. Hunting and Fishing Cabins

Any hunting and fishing cabin shall be placed not less than 250 feet from any property or access road line, other than a property line which is the shore of a lake or stream. In this last instance, there is no requirement in this connection. No sewage disposal facility shall be closer than 100 feet from any lake or river shoreline.

§250-16. Camps

All structures accessory to camps shall be placed not less than 500 feet from any property line other than a property line which is the shore of a lake or stream. In this last instance, there is no requirement in this connection. No sewage disposal facility shall be closer than 100 feet from any lake or river shoreline. When access to such facilities is by a private right-of-way or easement, it shall be acknowledged that the private right-of-way or easement is not a public road

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or street and that the Town is not liable for the construction or maintenance of any such private right-of-way or easement.

§250-17. Location of Driveways

No driveway center line shall intersect a street line less than 40 feet from the intersection of any two street lines.

§250-18. Farm Stands and Farm Markets (Added 6-20-1991)

A. Farm stands. A farm stand, as defined in this chapter, shall be a permitted accessory use in an agricultural district subject to the following regulations:

- (1) No more than one structure of temporary and movable nature shall be permitted, not to exceed 200 square feet in total floor space area.
- (2) Ground display area of agricultural products shall be immediately adjacent and appurtenant to any farm stand structure and shall not exceed 400 square feet in area.
- (3) Any structure and/or ground display area shall be located no closer than 25 feet from the edge of the pavement of the adjacent public road.
- (4) At least 70% of the bulk or volume of the wares displayed for sale within the farm stand structure shall be vegetative agricultural products, maple syrup or honey grown or produced upon the premises where such farm stand is situated and upon other lands owned or leased by the farm stand proprietor situated within the Town of Lima and contiguous farmlands owned or leased by the farm stand proprietor in adjoining Towns. The site of the farm stand must be one of the sites within the Town of Lima upon which the agricultural products are grown.

No more than 30% of the bulk or volume of the wares display for sale within the farm stand structure shall be vegetative agricultural products, maple syrup or honey grown or produced by other farmers in our region.

- (5) The site of the farm stand must be one of the sites owned or leased by the farm stand proprietor within the Town of Lima upon which the agricultural products are grown or produced.
- (6) Farm stand sales shall be permitted only during the recognized season for the production or harvest of such produce as is sold therefrom and between the hours of 8:00 a.m. and dusk. During the season(s) when such stand is not operational, the temporary structure shall be dismantled or removed from the location to an area upon the lands of the proprietor where such structure

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would be permitted, if any or within a larger structure upon the proprietor's property.

(7) No permanent signage shall be permitted.

(8) Farm stands and farm stand operations shall be subject to inspections at will by the Code Enforcement Officer to verify compliance with this chapter. Operation of a farm stand not in compliance with the requirements set forth in this chapter shall be deemed a violation and may be prosecuted by the Town of Lima.

B. Farm markets. A farm market, as defined in this chapter, shall be a permitted accessory use in an agricultural district subject to the following regulations:

(1) Building and structures

(a) No more than one freestanding structure shall be authorized and permitted to be used as a farm market. Said permanent structure shall be roofed and enclosed and must conform to all local and state building and safety codes, rules and regulations. Such structure may not exceed 1,500 square feet in total interior floor space area. The farm market structure shall not be located less than 175 feet from the edge of the public road servicing the parcel or lot upon which the farm market is situate, nor within 200 feet of the side lot lines of said parcel or lot.

(b) No other pre-existing or new building or enclosed and roofed structure may be built or used for farm market sales purposes, and all farm market sales transactions shall be negotiated or transacted only within the farm market structure. Notwithstanding the foregoing, this section shall not be interpreted to prevent or disallow the use of construction of one or more auxiliary structures for general operational purposes, provided that such structures shall not be used or maintained for retail sale purposes. New auxiliary structures must comply with the front and side setback requirements set forth in this subsection and all other use and operation regulations and requirements set forth in this chapter.

(c) One pre-existing barn or similar enclosed and roofed freestanding structure or a portion thereof may be used as the farm market structure in lieu of a new building, subject, however, to compliance with all local and state building and safety codes, rules and regulations. If only

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a portion of said pre-existing structure shall be used to house the farm market, the portion to be utilized shall be walled or structurally divided from the remainder of the interior of the structure in order to meet the authorized size limitation of 1,500 square feet. Notwithstanding the foregoing, any pre-existing structure or portion thereof to be used as the farm market structure shall also be required to comply with the front and side setback requirements set forth in this subsection and all other use and operation regulations and requirements set forth in this chapter.

- (2) Outdoor or ground display of vegetative agricultural products:
- (a) Outdoor or ground display of vegetative agricultural products only shall be permitted in conjunction with farm market operation, and only such vegetative agricultural products grown on lands owned or leased by the farm market proprietor within the Town of Lima and contiguous farmlands owned or leased by the proprietor in adjoining Towns shall be displayed outside the permanent farm market structure. No agricultural accessory products, as defined in this chapter, shall be displayed or offered for sale except within the enclosed, permanent structure.
 - (b) Outdoor or ground display of vegetative agricultural products is permitted.
 - [1] In areas appurtenant to the farm market structure and located behind or to the rear of the front building line of the farm market structure and no nearer to any side or rear parcel or lot line than 200 feet.
 - [2] In the area in front of the farm market structure, provided that such display area shall be no nearer to the public road than 50 feet from the edge of the public road servicing the property and no nearer to any side parcel or lot line than 200 feet, and such display area shall not exceed in area or dimensions a total of 600 square feet.

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- (c) Specifically excepted from this Subsection B(2) are vegetative agricultural products still growing in the field upon the parcel whereon the farm market is situated.
- (3) Paved or graveled off-street parking located immediately adjacent to the permanent farm market structure shall be provided. The parking area shall in size accommodate a minimum of five vehicles at any time, but shall in no instance exceed an area of 12,000 square feet, exclusive of any driveway leading thereto. Said parking area shall not be located within 200 feet from any side lot or parcel line. No single dimension of the parking area shall exceed 150 feet, which limitation is expressly intended to avoid creation or establishment of a parking strip.
- (4) One permanent sign conforming to the requirements set forth in this chapter shall be allowed.
- (5) Display of products.
 - (a) At least 50% of the bulk or volume of the wares displayed for sale within the farm market structure shall be agricultural products, maple syrup or honey grown or produced upon the premises where such farm market is situate and upon other lands owned or leased by the farm market proprietor situate within the Town of Lima and contiguous farmlands owned or leased by the farm market proprietor in adjoin Towns. The site of the farm market must be one of the sites within the Town of Lima upon which the agricultural products is grown.
 - (b) No more than 30% of the bulk or volume of the wares display for sale within the farm market structure shall be agricultural accessory products as defined in this chapter.
 - (c) No agricultural accessory products shall be displayed outside the enclosed farm market structure.
- (6) Farm market sales shall be permitted between the hours of 8:00 am. and dusk.
- (7) Permits.
 - (a) An annual permit shall be issued upon verification that the farm market is operated in compliance with this chapter section, as well as any other applicable local or state ordinance, law, rule or regulation pertinent hereto. The permit shall be issued by the Town Clerk upon receipt of written

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recommendation of the Code Enforcement Officer that the farm market and operation complies with all pertinent laws, rules, regulations or ordinances. An annual permit fee, as set forth from time to time by resolution of the Town Board, shall be tendered by the farm market proprietor following receipt of the Code Enforcement Officer's recommendation to issue such permit or renewal, but prior to issuance of such permit by the Town Clerk. **(Amended 11-6-1997 by L.L. No. 3-1997)**

- (b) A current and valid permit shall be openly displayed by the proprietor within the farm market structure.
 - (c) The amount of the annual permit fee may be reviewed annually by the Town Board to determine if such permit fee is deemed reasonable in the context of Code Enforcement Officer inspection requirements or like administrative requirements of the Town in monitoring such use or administering such permit procedure. Said permit fee may be increased no more than once annually without amendment of this chapter by resolution of the Town Board.
 - (d) Operation of a farm market without a valid permit is prohibited and shall be deemed a violation.
- (8) The Code Enforcement Officer shall be authorized to inspect the premises at will for code compliance verification, but shall inspect no less than once in each six month period, commencing with the date of issuance of a certificate of occupancy for the structure. If the Code Enforcement Officer of the Town of Lima shall, upon inspection of the premises, find that the operation of said farm market violates the regulations herein or any other pertinent ordinance or local law of the Town of Lima, said officer shall be authorized to issue an appearance ticket. If such violation is not cured within 10 days of the date of the issuance of said ticket or if such violations are consistent and recurring in nature, the Town Board shall be authorized to conduct a noticed hearing in the presence of the proprietor or operator or owner of said farm market to permanently terminate such violation or to terminate said party's operation of the farm market.

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- C. It is acknowledged that this chapter is adopted to foster and promote local agricultural pursuits and parties actively engaged in agriculture as a primary means of livelihood. It is not the intention of this chapter to authorize or create isolated, general commercial enterprises within agricultural districts. For this reason, legal subdivision or sale of the farm market an appurtenant area from the greater parcel of land sustaining the agricultural use and production shall automatically terminate the farm market permit. In no event will the permit be extended, reissued or renewed if the farm market is legally divided or sold apart from or independently of the agricultural land upon which it is built so as to create a separate, commercial use.

ARTICLE V: Residence Use Districts R

§250-19. Purpose

The R Districts are established to provide for the development of residential neighborhoods occupied primarily by single-family residences. It is contemplated that all residences in these districts shall be served by public water supply and public sewage disposal and/or water supply facilities.

§250-20. Permitted Uses

In R District, no building or other structure or land shall be used and no building or other structure shall be built, altered or erected for any purpose other than:

- A. One-family dwelling, including the following accessory uses and buildings:
1. Accessory use of buildings as defined herein.
 2. Keeping of not more than three transient roomers and boarders.
 3. Outdoor storage of no more than one each of the following: boat, boat trailer, camp trailer or cargo trailer owned for personal use by a resident of the premises.
 4. Private garage or open parking for operative passenger vehicles of persons visiting or residing on the premises.
 5. Playhouse, toolhouse or garden house.
 6. Private swimming pool not operated for gain.
- B. Agriculture as defined herein.
- C. Other uses and other building and structures as provided by §250-67 (Setback exceptions for private garages on steep slopes), §250-72 (Signs) and §250-74 (Temporary uses and structures).

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D. The following uses permitted by special use permit subject to the procedures and criteria in §250-65:

1. Bus-passenger shelter.
2. Church or other place of worship, together with its usual accessory buildings, including parish houses, but not including cemeteries.
3. Educational institutions.
4. Electric substation, gas district governor station.
5. Multifamily, two-family and semidetached dwellings with minimum lot area per dwelling unit 10,500 square feet
6. Municipal, county, state or federal uses or buildings.
7. Public parks and noncommercial recreation facilities.
8. School, primary and secondary, (not including vocational, trade or business schools).

§250-21. Prohibited Uses (Amended 5-17-1990, 11-6-1197 by L.L. No. 3-1997)

Any uses not specifically permitted shall be prohibited.

§250-22. Area, Setback and Height Restrictions.

A. Dwellings

- (1) Area per dwelling unit and lot dimensions. The minimum width of the lot at the front building line shall be 150 feet, and the minimum depth of the lot shall be 140 feet from the street line so as to yield a minimum lot size of 21,000 square feet. However, this shall not apply to prevent the construction of a one-family dwelling on a lot existing prior to the date of enactment and not adjoined at the side by other unoccupied land in the same ownership, having an area of less than 21,000 square feet provided that the front, rear and side setback requirements specified below are met.
- (2) Front setbacks. No building or part of a building other than steps, open porches, eaves and cornices and similar fixture shall extend nearer the street line than the average distance of setback of the nearest main building within 100 feet on each side of said building and fronting the same side of the street. When only one building exists on the same side of the street with the building to be erected and within 100 feet thereof, the building setback from the street line shall be not less than the average

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- between the setback of the existing building and 50 feet. When no building exists on the same side of the street with the building to be erected within 100 feet thereof, the setback at the front shall be 50 feet from the street line or 75 feet from the center line of the street, whichever requires the greater setback from the street line. However, the above shall not apply to require placing a building more than 10 feet back of the front main wall of an existing adjacent building within 100 feet thereof. Building setbacks specifically established by §250-76 of this chapter or by any other action of the Town Board shall take precedence over the above.
- (3) Rear setbacks. There shall be a rear setback with a depth of not less than 25 feet. When a building or property extends through a block from street to street, the front setback requirements shall be observed on both streets.
- (4) Side setbacks. There shall be two side yards with a total width of not less than 30 feet, and the width of the narrower of the two side yards shall not be less than 1/3 of the total width of the two side yards.
- (5) Corner lots. In the case of a corner lot, both yards abutting streets shall be determined as section A(2). The minimum width of the lot at the building line parallel to the street considered to be the front street shall be 130 feet.
- (6) Height. For each foot that the height of a building or other structure exceeds 35 feet, the total width of the two side setbacks shall be increased by two feet.
- B. Nondwelling uses
- (1) Area per use and lot dimensions. The minimum land area or lot size per non-dwelling use shall be 25,000 square feet, and the minimum width of the lot at the front building line shall be 150 feet. For a nonresidential building other than a garage or other building accessory to a dwelling, there shall be two side setbacks with a total width of not less than 60 feet, and for each foot the height of such building exceeds 35 feet, the total width of the two side setbacks shall be increased by four feet. The width of the narrower of the two side setbacks shall not be less than 1/3 of the total width of the two side setbacks.
- (2) For purposes of calculation of the area of land required, reference is made to the definitions contained in Article III of this chapter, and specifically to the definitions of area, land; building line, front; lot, corner; lot depth; lot of record; street line; and setback, front, which said definitions are to be deemed to be incorporated in this section and subsections and as such definitions may be amended from time to time.
(Added 8-4-1994)

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§250-23. Private Garages and Other Accessory Buildings

- A. No detached private garage or other accessory building shall be placed closer to a side or rear property line than 10 feet, and for each foot the height of such building exceeds 15 feet, the offset from the rear and side property line shall be increased by one foot. No detached garage or other accessory building shall be placed closer to the street line than 10 feet to the rear of the front main wall of the principal building and on a corner lot closer to the street line of the side street than 50 feet or ½ the width of the lot whichever is the lesser. In relation to an attached garage or carport built as a structural part of a dwelling, with or without breezeway connection, the same front and side yards shall be required as for a dwelling, and such yards shall be measured from the outer walls or roof line of such attached garage or carport. An attached garage or carport may extend into a rear yard.
- B. Allowable exceptions to the above requirements for accessory buildings to be built on steep slopes are as provided by §250-67.
- C. No garage or other accessory building shall be used as a dwelling except by a person or persons employed on the premises.

§250-24. Location of Driveways

No driveway center line shall intersect a street line less than 40 feet from the intersection of any two street lines.

§250-25. Area Restrictions for Lots Not Served by Public Water and Sewer

- A. In the case of lots in R Districts not served by public water and/or sewer, the minimum lot area per dwelling unit shall be 21,000 square feet and the minimum width at the front building line shall be 200 feet.
- B. For purposes of calculation of the area of land required, reference is made to the definitions contained in Article III of this chapter and specifically to the definitions of area, land; building line, front; lot, corner; lot depth; lot of record; street line; and setback, front, which said definitions are to be deemed to be incorporated in this section and subsection and as such definitions may be amended from time to time. **(Added 8-4-1994)**

ARTICLE VI: General Business Use Districts B

§250-26. Permitted Uses (Amended 10-9-1982; 11-3-1994; 2-3-2000)

In General Business Use Districts B, buildings or land may be used and buildings and other structures may be built, altered or erected for any of the following purposes upon approval of site and construction plans by the Planning Board. Nothing shall prohibit the combination of any

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permitted use upon one property as long as such combination is housed within one structure or connected structures so as to prevent the effective development of apparently separate and distinguishable uses upon one parcel.

- A. Animal hospital, veterinary clinic or kennel, provided that any structures or area used for such purposes, including pens or exercise runnings, shall be at least 200 feet distance from any property line.
- B. Car wash.
- C. Automobile sales: new.
- D. Billiard rooms.
- E. Bowling alley or similar recreational establishment entirely enclosed with a building.
- F. Building material sales, including lumberyards.
- G. Clubs.
- H. Commercial greenhouses and plant nurseries, including offices and sales yards, provided that no building for any such use shall have a heating plant, ventilating flue or other opening except stationary windows within 50 feet of any residence district.
- I. Sales and/or rentals of cargo and/or camping trailers.
- J. Communications centers.
- K. Funeral home or mortuary.
- L. Hotels.
- M. Ice storage and vending (three tons or less capacity).
- N. Lodges.
- O. Motel or motor court, conforming to the provisions of §250-68.
- P. Motor vehicle service station, conforming to the provisions of §250-71.
- Q. Offices.
- R. Places of amusement or assembly.
- S. Public motor vehicle repair and public parking and storage garages, conforming to the provisions of §250-71.

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- T. Restaurants.
- U. Retail businesses or retail service.
- V. Salesroom or shop of a builder, contractor or artisan, provided that no equipment is stored out-of-doors unless enclosed and screened from view by fences.
- W. Skating rinks.
- X. Theaters other than drive-in.
- Y. Accessory use and buildings customarily incidental to the above permitted uses.
- Z. Other uses as provided by §250-72 (Signs) and §250-74 (Temporary uses and structures).
- AA. Light assembly or manufacturing, limited to manufacturing, processing or assembly activities, including wholesale and warehousing activities and related supportive activities which will not constitute a fire hazard or result in glare, odor, dust or other airborne fumes or irritants or noise, and which use shall not result in any unreasonably adverse impacts on surrounding land uses.
- BB. Nursery Schools, Preschools, and Educational Institutions
- CC. The following uses permitted by special use permit subject to the procedures and criteria in §250-65:
 - 1. Drive-in businesses including drive-in outdoor theaters: subject of the requirements of §250-82.
 - 2. The storage of alcohol, gasoline, crude oil, liquefied petroleum, gas or other highly flammable substances subject to the requirements of §250-83.

§250-27. Prohibited Uses (Amended 5-17-1990; 11-6-1997 by L.L. No. 3-1997

Any uses not specifically permitted shall be prohibited.

§250-28. Area, Setback, Building Size and Height Restrictions

In addition to the specific restrictions established in connection with permitted uses listed in §250-26 and the requirements listed in Article XI, the following regulations apply to all other uses permitted in B districts.

- A. Area and lot dimensions. The minimum net land area per establishment shall be one acre, and the minimum width of lot at the front building line shall be 150 feet.
However, it shall be allowable to construct a group of establishments in accordance

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- with an integrated site and architectural plan approved by the Planning Board, and the minimum land area for such a group shall be five acres with a minimum width of 400 feet at the front building line.
- B. For purpose of calculation of the area of land required, reference is made to the definitions contained in Article III of this chapter, and specifically to the definitions of area, land; building line, front; lot, corner; lot depth; lot of record; street line; and yard, front, which said definitions are to be deemed to be incorporated in this section and subsections and as such definitions may be amended from time to time. **(Added 8-4-1994)**
 - C. Front setbacks. There shall be a minimum front setback of 50 feet into which space there shall be no encroachment of structures other than a fence, wall or sign not larger than 20 square feet and no encroachment of commercial usage other than parking space for not more than 10 cars.
 - D. Side setbacks. No building shall be placed closer to a side property line than 30 feet, and no automobile parking space shall extend nearer to a side property line than 15 feet.
 - E. Rear setbacks. No building shall be placed closer to a rear property line than 50 feet if the adjacent district is an Agricultural Use District or a Residence Use District or a Q District or closer to a rear property line than 20 feet if the adjacent district is any other class of district.
 - F. Height. There shall be no limit on the height of buildings except for each foot the height of a building exceeds 35 feet, the offset from the side and rear property lines shall be increased by two feet.
 - G. Building size. No building used or intended for use for retail purposes shall exceed 40,000 square feet in gross floor area.

§250-29. Entrances and Exits Upon Public Streets

There shall not be more than one entrance and one exit per establishment on any individual public street and the distance between the entrance and exit center lines, if separate, shall not be less than 100 feet and the exit shall not intersect any street line less than 40 from the intersection of any two street lines. The location of driveways along Routes 5 & 20 or Route 15A shall conform to the Access Management requirements of §250-117.

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§250-30. Landscape Treatment

All properties shall be appropriately landscaped, particularly at the front. Properties abutting residence districts shall be planted with trees and shrubs for a width of not less than 15 feet on all property lines abutting residence districts.

§250-31. Development Plan Required

The application for a permit to construct a building or buildings or to establish a use in a General Business Use District B shall be accompanied by a plan, in duplicate, drawn to scale and showing property lines and the location of proposed building or buildings, entrances and exits, parking spaces, landscape treatment, signs and other improvements, and such plan shall become a part of the record.

§250-32. Approval of Plans (Amended 10-9-1982)

Approval of site and construction plans by the Planning Board in accordance with the procedures set forth in Article XIII hereof shall be required in each instance of establishment of a new and otherwise permitted use and in each instance of expansion of an existing permitted use.

ARTICLE VII: Industrial Use Districts M

§250-33. Purpose

Industrial Use Districts are primarily for heavy commercial and light industrial uses whose activities do not usually constitute a fire hazard or emit smoke, glare, noise, odor or dust or in other ways constitute a nuisance or are detrimental to neighboring properties.

§250-34. Permitted Uses

- A. In Industrial Use District M, buildings or land may be used and buildings and other structures may be built, altered or erected for any purposes permitted in any other class of districts, except dwellings, churches and schools and any use not in conflict with any other ordinance of the Town upon approval of site and construction plans by the Planning Board in accordance with Article XIII hereof. **(Amended 10-9-1982)**
- B. The following uses permitted by special use permit subject to the procedures and criteria in §250-65:
 1. Adult bookstores, adult cabarets and adult entertainment establishments are permitted uses, subject to the special regulations set forth in §250-39 of this article. **(Added 9-7-1995)**

§250-35. Prohibited Uses (Amended 5-17-1990; 11-6-1997 by L.L. No. 3-1997)

Any uses not specifically permitted shall be prohibited.

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§250-36. Area, Setback Height and Bulk Restrictions

- A. Area per use and lot dimensions. The minimum land area or lot size per permitted use is three acres and the minimum width of the lot at the front building line shall be 300 feet.
- B. For purpose of calculation of the area of land required, reference is made to the definitions contained in Article III of this chapter, and specifically to the definitions of area, land; building line, front; lot, corner; lot depth; lot of record; street line; and setback, front, which said definitions are to be deemed to be incorporated in this section and subsections and as such definitions may be amended from time to time. **(Added 8-4-1994)**
- C. Front setback. There shall be a front setback of not less than 150 feet in depth.
- D. Rear setback. There shall be a rear setback of not less than 50 feet in depth.
- E. Side setbacks. There shall be two side yards each giving a width of not less than 25 feet except as provided in Subsection F below.
- F. Establishments abutting residential districts and uses. All buildings and structures constructed on property which abuts any residential district or use shall be located so as to provide a minimum side yard of 50 feet on the side adjacent to the residential district use. Notwithstanding any indication to the contrary in this chapter, streets or public rights-of-way 30 feet or more in width may be included as the side setback requirement of this subsection. Rear setbacks shall not be less than required in the abutting residential district. **(Amended 8-9-1994)**
- G. Lot coverage, open space and building bulk regulations.
 - (1) The maximum lot coverage shall be 50% of the land area of the lot as defined herein.
 - (2) The maximum floor area ratio shall be two.
- H. All industrial processes shall take place in a completely enclosed building or structure.

§250-37. Fire-resistant Construction

All buildings constructed in an Industrial Use District M shall be fire-resistant construction as required by the Codes of New York.

§250-38. Approval of Plans (Amended 10-9-1982)

Approval of site and construction plans by the Planning Board in accordance with the procedures set forth in Article XIII hereof shall be required in each instance of establishment of new and otherwise permitted use, and in each instance of expansion of an existing permitted use.

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§250-39. Adult Uses (Added 9-7-1995)

A. Purpose

- (1) The Town Board finds that while adult bookstores, adult cabarets and adult entertainment establishments cannot be constitutionally prohibited throughout the Town, they can be and should be regulated.
- (2) The operational characteristics of such uses would, without these regulation, have increased detrimental effects within the Town. These regulations are designed to prevent the following probable secondary effects attributable to such use: the creation of traffic and/or parking problems, loitering due to the attraction to transients, increases in criminal activities, deterioration within residential neighborhoods, decrease in property values and impairment of other retail trades.

B. Special regulations applicable to adult bookstores, adult cabarets and adult entertainment establishments:

- (1) No more than one of the enumerated adult uses shall be permitted on any single lot in the Town.
- (2) None of these said adult uses shall be located within 500 feet of any residential zoning district.
- (3) None of these said adult uses shall be located within 500 feet of the property lines of a school, church or other place of religious worship, day-care center, park or playground or other area where groups of minors assemble or congregate.
- (4) None of these said adult uses shall be located within 1,000 feet of the property lines of a lot containing another such use.
- (5) All adult bookstores, adult cabarets and adult entertainment establishment shall be conducted in an enclosed building. Regardless of location or distance, no one who is passing by an enclosed building having a use governed by these provisions shall be able to visually see any specified anatomical area or any specified sexual activity by virtue of any display which depicts or shows said area of activity. This requirement shall apply to any display, decoration, sign window or other opening.
- (6) None of these said adult uses shall be located within 500 feet of an agricultural district.

ARTICLE VIII: Land Conservation Districts L-C

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§250-40. Purpose

The purpose of the Land Conservation District is to delineate those areas where substantial development of the land in the way of buildings or structures is not desirable because of special or unusual conditions of topography, drainage, floodplain or other natural conditions, whereby considerable damage to buildings or structures and possible loss of life may occur due to the processes of nature and the lack of proper facilities or improvements resulting in the land not being suitable for development at the present time and where such facilities or improvements must be undertaken on an area-wide rather than individual parcel basis in order to serve adequately at a reasonable cost to the Town.

§250-41. Permitted Uses (Amended 10-9-1982)

- A. To promote these purposes in Land Conservation Districts L-C, all site and construction plans must be approved by the Planning Board in accordance with Article XIII hereof.
- B. No building or other structure shall be built or land used, and no building shall be built, altered or erected to be used for any purposes other than that of:
 - 1. Farm or other agricultural operation, including gardens, nurseries, greenhouses and usual farm accessory buildings, not including dwelling or buildings housing farm animals or fowl.
 - 2. Park, playground, athletic field, golf course, riding academy, game preserve and other similar uses, including usual accessory buildings.
 - 3. Municipal or public utility structures or facilities.

§250-42. Prohibited Uses (Added 5-17-1990; amended 11-6-1997 by L.L. No. 3-1997)

Any uses not specifically permitted shall be prohibited.

§250-43. Area, Setback and Height Restrictions

A. Area

- (1) The minimum area per establishment shall be one acre and the minimum width of the lot at the front building line shall be 150 feet.
- (2) For purpose of calculation of the area of land required, reference is made to the definitions contained in Article III of this chapter and specifically to the definitions of area, land; building line, front; lot, corner; lot depth; lot of record; street line; and setback, front, which said definitions are to be deemed to be incorporated in this

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section and subsections and as such definitions may be amended from time to time.
(Added 8-4-1994)

- B. Front setback. There shall be a front yard with a depth of not less than 80 feet into which space there shall be no encroachment of building construction.
- C. Side and rear setbacks. No building shall be placed closer to side or rear property line than 50 feet.
- D. Height. For each foot the height of a building or other structure exceeds 35 feet, the total width of the two side yards shall be increased by two feet.

ARTICLE IX: Planned Development Districts P-D, Planned Senior Residential District

§250-44. Purpose

Provision for Planned Development Districts is included herein to permit the establishment of areas in which diverse uses may be brought together in a unified plan of development.

§250-45. Permitted Uses

In Planned Development Districts, land and buildings may be used for any lawful purposes as determined by the Town Board, subject to the following limitations and procedures.

§250-46. Area Provisions

- A. Planned Development Districts shall comprise not less than five acres.
- B. For purpose of calculation of the area of land required, reference is made to the definitions contained in Article III of this chapter and specifically to the definitions of area, land; building line, front; lot, corner; lot depth; lot of record; street line; and setback, front, which said definitions are to be deemed to be incorporated in this section and subsections and as such definitions may be amended from time to time. **(Added 8-4-1994)**

§250-47. Procedure for Establishment

- A. Application for establishment of a Planned Development District shall be made to the Town Board. The Town Board shall refer the application to the Planning Board for consideration.
- B. The Planning Board may require the applicant to furnish such preliminary plans, drawings and specifications as may be required for an understanding of the proposed development. In reaching its decision on the proposed development, the Planning Board shall consider, among other things, the need for the proposed uses in the proposed location, the existing character of the neighborhood in which the use would be located

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and the safeguards provided to minimize possible detrimental effects of the proposed use on adjacent property.

- C. The Planning Board shall approve, approve with modifications or disapprove such application and shall report its decision to the Town Board.
- D. The Town Board shall hold a public hearing on the proposal, with public notice, as provided by law in the case of an amendment to this chapter.
- E. The Town Board may then amend the chapter so as to define the boundaries of the Planned Development District, but such action shall have the effect only of granting permission for development of the specific proposal, in accordance with this chapter within the area so designated, with the specifications, plans and elevations submitted.
- F. If no action is taken to implement the specific proposal within a year of its approval by the Town Board, the area designated shall return to the classification it held prior to the Town Board's approval of the change of classification.

§250-48. Planned Development – Senior Residential (PD-SR) District

A. Purpose. The purpose of the Planned Development – Senior Residential District is to:

- (1) Provide a variety of senior oriented housing types in an area with public water and sewer services;
- (2) To regulate land use for senior oriented residential development in a manner that provides certain advantages over that which would be obtained under conventional zoning;
- (3) To provide a development framework for senior oriented residential communities that results in land uses and physical site arrangements that are not contemplated under conventional zoning;
- (4) To preserve and enhance natural features of the site.

B. Objectives. The following objectives shall be considered in the development of a PD-SR district:

- (1) Provide for a maximum choice in the types of environment, occupancy, tenure, types of housing, lot sizes, and community facilities available to existing and potential residents.
- (2) Provide for usable open space and recreation areas and other facilities serving the community, such as trail ways to neighboring properties, sitting benches, and the like.

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- (3) Provide for access to trail ways, open space, and other community services through clearly designated pathways as part of the project development.
- (4) Provide for convenient location of commercial and service areas that are appropriately scaled to serve primarily residents of the senior residential development and to minimize impacts on traffic and neighboring properties.
- (5) Provide for safe and convenient pedestrian access to facilities within the District, public transportation facilities and to any existing and potential future pedestrian walkways that adjoin the District.
- (6) Provide for auxiliary parking as may be necessary and ensure that such parking areas are treated with appropriate landscaping or structural features to allow a more aesthetic presentation to the entire district.
- (7) Provide for the preservation of trees, outstanding natural topography and geologic features, and the prevention of soil erosion.
- (8) Provide for a creative use of land and related physical development that allows orderly transition of land from rural to urban uses.
- (9) Provide for an efficient use of land resulting in smaller networks of utilities and streets thereby lowering housing costs.
- (10) Provide for service alleys to allow safe and adequate access to structures in the district for purposes of refuse removal, emergency access, and other public or private services.
- (11) Provide for a development pattern consistent with the objectives of the Comprehensive Plan.
- (12) Provide for special security needs of persons and property within such district as deemed necessary by the nature of the development.
- (13) Provide for a more desirable environment than would be possible through the strict application of other provisions of the Town's zoning regulations.
- (14) Promote community senior housing in a unique setting that is appropriate to the anticipated residents of each such community by utilizing homeowners or condominium associations, deed restrictions, and other regulatory procedures where appropriate.

C. Project size, location and ownership

- (1) Land to be considered for PD-SR zoning must contain a minimum of 15 contiguous acres and may be located in any residential zoning district.

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- (2) The tract of land for a project may be owned, leased or controlled either by a single person, a corporation, or by a group of individuals and/or corporations. An application must be filed by the owner or jointly by all the owners of property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners.

D. Procedures to establish a PD-SR district

- (1) Establishment of PD-SR Districts. The Town Board may, on its own motion or in response to an application, amend the Zoning Map to establish a Planned Development – Senior Residential district. In reaching its decision, the Town Board shall consider this statement of purpose, objectives and general criteria set forth in this chapter as well as the current Comprehensive Plan for the Town.
- (2) Before the consideration of zoning of any property to a PD-SR district can take place by the Town Board, the owner or his authorized agent submit an application for rezoning to PD-SR to the Town Board. Such application shall include a conceptual site plan as described in Article XIII of this Chapter (Site Plan Review.) The Town Board shall refer the conceptual site plan to the Planning Board, which shall review it in accordance with the site plan approval procedures established in Article XIII. The Planning Board shall submit a report of its findings to the Town Board.
- (3) Upon receipt of a favorable report from the Planning Board covering the conceptual site plan, or upon its own determination subsequent to an unfavorable report, the Town Board shall set a date for and conduct the public hearings necessary for the purpose of considering PD-SR districting for the applicant’s plan in accordance with the procedures established in § 165-104. Amendments.
- (4) Following the public hearing, the Town Board may establish the PD-SR district. PD-SR districting shall be conditional upon securing of final site plan approval by the applicant in accordance with procedures set forth in Article XIII and compliance with all additional conditions and requirements as may be set forth by the Town Board in its resolution granting the PD-SR districting.
- (5) The Planning Board shall conduct a single review that will address the requirements of Site plan review under the provisions of Article XIII: Site Plan Review as well as those for the review of subdivisions under Town Subdivision Regulations, subject to the following conditions:
 - (a) As directed by the Town Planning Board, the developer shall prepare sets of subdivision plats suitable for filing with the office of the Livingston County Clerk, in addition to those drawings required for site plan review.
 - (b) The developer may plat the entire development either as a subdivision or as a single property. Multiple phases of development, if any, shall be identified on the plat. The Planning Board may require that the final site plan/ subdivision review for phases be approved and recorded individually.

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E. Permitted uses

- (1) Permitted residential uses.
 - (a) All residential types may be permitted as principal uses, including but not limited to single family dwellings, twin home dwellings, townhouse dwelling units, and multiple residence buildings, provided that the residences are designed and intended predominantly for persons age 55 or older.
- (2) Permitted public and community service uses
 - (a) Recreation and open space uses which are scaled primarily to serve the residents of the PD-SR district.
 - (b) A community center or clubhouse for the private, noncommercial use of the residents of the PD-SR district.
 - (c) Indoor or outdoor recreational facilities for the private, noncommercial use of the residents of the PD-SR district.
 - (d) Community buildings and facilities, owned and maintained by the Town.
- (3) Permitted commercial and service uses.
 - (a) Offices and clinics of New York State licensed health-care professions including but not limited to dentists, chiropractic, optical, physicians, pharmacists, or other health-care professions, excluding overnight occupancy, provided that there are not more than eight professionals per office or clinic.
 - (b) Outpatient medical laboratories.
- (4) Special permitted uses. The following uses may be permitted by the Zoning Board of Appeals according to the requirements of Article IX of this chapter:
 - (a) Hospitals, convalescent homes, homes for the aged, nursing homes or proprietary care facilities.
 - (b) Adult day-care, child care and nursery schools.
 - (c) Offices of accountants, real estate brokers, financial planners, or lawyers.
 - (d) Neighborhood convenience stores or delicatessens with a gross floor area of 1,000 sq. ft. or less.
 - (e) Personal care, beauty shops, and barbershops.

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- (f) Coffee shops or restaurants with a seating capacity of 50 or fewer people.
- (5) Permitted accessory uses to residential uses:
 - (a) Decks or porches provided that each serves only a single dwelling unit.
 - (b) Courtyards, gazebos, tennis courts or swimming pools for the private, noncommercial use of the residents of the PD-SR district.
 - (c) Indoor or outdoor recreational facilities for the private, noncommercial use of the residents of the PD-SR district.
 - (d) Garages for the private, noncommercial use of the residents and to store vehicles and equipment used in property maintenance of the PD-SR district.
 - (e) One utility shed per dwelling unit for the private use of the individual household, provided that the structure does not exceed an area of 100 square feet and is located no further than 20 feet from an entrance to the residence to which it is an accessory use.
- (6) Permitted accessory uses to non-residential uses
 - (a) Storage facilities incidental to the principal use, provided that all storage of materials and equipment is enclosed, or otherwise secured from adverse weather.
 - (b) Pharmacies when included within a medical services building.

F. Requirements for residential uses in the Senior Residential (PD-SR) District.

- (1) Dimensional requirements
 - (a) All single family dwelling units within a PD-SR district shall have a living area, excluding the area of porches and auto garages, of not less than the following when computed using the outside dimensions of the dwelling unit:
 - i. One (1) story dwelling with no more than two bedrooms: a ground floor of one thousand and twenty (1,020) square feet.
 - ii. One (1) story dwelling with more than two bedrooms: a ground floor of one thousand one hundred twenty (1,120) square feet.
 - iii. Split-level dwelling: one thousand one hundred twenty (1,120) square feet of finished living area above ground.
 - iv. Two (2) story dwelling: one thousand three hundred (1,300) square feet of finished living area total, including both floors.

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- v. Raised-ranch dwelling: one thousand six hundred (1,600) square feet of living area total, with at least nine hundred eighty (980) square feet of finished living area above ground.
- (b) Townhouses, twin home dwellings, and multiple residence buildings.
 - i. All multiple residential dwelling units within a PD-RS district shall have a living area computed on the outside dimensions of the dwelling unit based on the following criteria:

Type of Unit	Minimum Unit Size
Studio:	500 sq ft. (not more than 25% of the total number of units provided shall be studio units).
One-bedroom:	650 sq ft.
Two-bedroom:	800 sq ft.
Three or more bedrooms:	800 sq ft, plus 100 sq ft for each additional bedroom.
Townhouse:	950 sq ft.

- ii. No building shall contain more than eight dwelling units.
- iii. Each dwelling unit shall have its own separate full bathroom.
- iv. All multiple residences, twin home dwellings, and townhouse developments shall provide safe and efficient pedestrian circulation and site lighting.
- v. All multiple residence buildings, twin home dwellings, and townhouse structures shall be served by adequate water supply and sanitary sewage disposal facilities that are owned, operated and maintained by a competent entity. On-site water supply or wastewater disposal facilities intended to serve individual residential units shall not be permitted.
- vi. Each building shall be provided with suitable containers for the storage of recyclable materials and refuse collections. Such containers shall be screened from public view by use of fences or solid walls.
- vii. All multiple residences, twin home dwellings and townhouse developments shall have direct access from the common parking area(s) to a dedicated highway.

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- viii. All twin home dwellings and townhouse developments shall provide two (2) parking spaces for each dwelling unit. At least one parking space for each dwelling unit shall be enclosed.
 - ix. All multiple residences shall provide one-and-one-half (1.5) parking spaces for each dwelling unit. Each parking space shall have a minimum width of 10 feet, and a minimum length of 20 feet. The Planning Board, at its own discretion, may reduce the required number of spaces upon receipt of sufficient supporting data from the developer. Such data shall clearly and factually state the actual parking requirements of the proposed multiple residence building.
 - x. No multiple residence, twin home dwellings or townhouse development shall have more than three (3) stories or be more than 35 feet in height. Spires, chimneys, cupolas, flagpoles are exempt from this limitation, as are antennae, provided that the antennae are visually integrated into the building lines.
 - xi. No room shall be used for living purposes if more than four feet of its vertical height is below grade.
 - xii. No multiple residence, twin home dwellings, or townhouse building shall be less than 18 feet in width.
 - xiii. No swimming pool shall be located within 40 feet of a multiple residence or townhouse dwelling structure.
- (2) Additional requirements for single family dwellings, twin home dwellings and townhouse buildings are as follows. There shall be:
- (a) A minimum overhang of one foot on the roof on the front and rear of all homes.
 - (b) A minimum of five (5) inches of rake on the gable roof end.
 - (c) A single-car garage with a minimum width of fourteen (14) feet and a minimum area of 280 sq. ft. per dwelling unit, either attached or detached.
 - (d) Two (2) exit doors.
 - (e) An area between the gutter and sidewalk that is paved the full width of the driveway.
 - (f) Poured in place front steps.

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- (g) No more than three (3) single-family detached homes of substantially similar style located on three adjacent lots which front on the same street.
 - (h) For single-family dwelling units, a tree planted for each parcel, except on a corner lot, which shall require two trees to be planted, one on each side of the lot facing the road.
 - (i) Sidewalks installed on at least one side of all interior roadways to accommodate pedestrian circulation
- (3) The total density of residential development within the PD-SR district shall not exceed 10 dwelling units per acre. The calculation of such dwelling unit density shall not include areas designated as open space nor shall it include areas devoted to non-residential uses. The areas used for the calculation of density shall be identified in the conceptual site plan.
 - (4) No more than 10% of the total land area of the residential development may be devoted to single family dwellings.

G. Requirements for recreation, open space and public and community service uses

- (1) Open space shall comprise at least 25% of the development area unless deemed inappropriate or impractical by the Planning Board in connection with the site plan approval. No permanent structures shall be allowed on land designated as open space.
- (2) The total amount of land allocated for indoor recreational facilities, structures owned and maintained by the Town or other indoor community service facilities shall comprise not more than 10% of the entire PD-SR district, including space for off-street parking, unless more or less extensive use is deemed appropriate or advisable by the Planning Board in connection with the site plan approval as required herein.

H. Requirements for commercial and service uses, including specially permitted uses

- (1) Permitted commercial and service uses shall be scaled primarily to serve the specific needs of the residents of the district and shall be designed and located so as to facilitate pedestrian as well as vehicular access from the residences within the district.
- (2) Space allocated for such commercial and service uses shall comprise not more than 10% of the entire PD-SR district, including space for off-street parking, unless more or less extensive use is deemed appropriate or advisable by the Planning Board in connection with the site plan approval as required herein.
- (3) Commercial and service uses within a PD-SR district shall be consolidated into a single area within the district.

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- (4) Commercial and service uses within a PD-SR district shall adhere to the following requirements:
- (a) Buildings utilized for approved non-residential use activity within a PD-SR district shall be of similar or complimentary architecture to the approved architectural scheme of the district.
 - (b) Site Plan Review and Planning Board approval shall be required for any additions and/or changes to structures, landscaping, and signage related to a non-residential use within a PD-SR district that are proposed subsequent to the approval of the overall site development plan by the Planning Board.
 - (c) Parking, loading, access, fencing, and site requirements shall be as provided in Article XVI of this chapter.
 - (d) Signs shall be permitted as listed and further regulated in Article XIV of this chapter.
 - (e) No drive-in or drive-through services for restaurants shall be permitted.
 - (f) There shall be no outside display of merchandise or storage of waste materials.
 - (g) Site lighting shall be shielded in such a way that the source light is not visible at the lot line.
 - (h) All customer parking areas shall be hard-surfaced and buffered from any adjacent residential lot.
- (5) In recognition of the unique restrictions and limitations which impact non-residential uses within a PD-SR district, various requirements which are otherwise imposed upon commercial use within the Town may be modified or waived by the Planning Board, upon good cause shown, including but not limited to requirements regarding off-street parking.

§250-49. Reserved.

§250-50. Reserved.

ARTICLE X: Mining, Quarrying and Land Excavation Districts Q

§250-51. Purpose

The Mining, Quarrying and Land Excavation District Q is established to permit extractive industries and to restrict them to areas of the Town in which such activities are deemed to be not likely to constitute a nuisance or be detrimental to neighboring properties.

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§250-52. Permitted Uses

- A. Uses permitted include uses of an extractive nature, including but not limited to the operation of sand and gravel mines and pits, topsoil removal and mineral removal work and all uses, building and structures permitted in Agricultural Use Districts A and Land Conservation Districts L-C. All such uses are permitted upon approval of site and construction plans by the Planning Board, and such approval may be granted only after ascertaining that the proposed use shall be made in such manner as will not constitute a nuisance or be detrimental to neighboring properties. **(Amended 10-9-1982)**
- B. Notwithstanding any other provision of this chapter, for purposes of promotion and preserving the public health and safety and to encourage the appropriate use of land throughout the Town, the calculation of area for purposes of this use and use district classification shall exclude lands lying between the center line and street line of the appurtenant highway(s) or right(s)-of-way. **(Added 8-4-1994)**
- C. Such accessory buildings and structures shall be permitted as are customarily and ordinarily incident to uses of an extractive nature, except that all buildings, structures, machinery, equipment and explosives shall be suitably fenced, stored and isolated against trespass to prevent injury to person and property.

§250-53. Area, Setback and Height Restrictions

- A. Uses, buildings and structures permitted in Agricultural Use Districts A and Land Conservation Districts L-C shall be governed by setback, area and height restrictions as specified in §250-13 and §250-43, except where such uses are made or to be made in conjunction with an extractive use or by an employee, agent or participant in such extractive use which is being made within the same Mining, Quarrying and Land Excavation District Q.
- B. No use of an extractive nature shall be maintained to a greater dimension than is depicted or upon land upon which such a use is not depicted upon an instrument survey or other acceptable map submitted and approved in support of an application for a certificate of occupancy.
- C. No use of an extractive nature shall be maintained at a distance of less than 300 feet from a public highway or from any neighboring property.

§250-54. Additional Restrictions and Requirements

- A. All excavations shall be fenced in a manner sufficient to protect against trespass and to prevent injury to person and property.

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- B. Any building or structure containing explosive materials or substances shall be visibly marked as so containing and shall be completely fenced and locked at all times in such a manner as to protect against trespass and to prevent injury to person and property.
- C. No excavation shall be abandoned and no extractive use shall be indefinitely ceased without first obtaining approval of the Planning Board after inspection by the Code Enforcement Officer. Approval shall be granted upon the Planning Board ascertaining that suitable provision has been made to protect against injury to person and property. A public hearing and public notice shall not be required. **(Amended 10-9-1982)**

§250-55. Prohibited Uses (Added 5-17-1990; amended 11-6-1997 by L.L. No. 3-1997)

Any uses not specifically permitted shall be prohibited.

Article XI: Environmental Protection Overlay Districts

§250-56. General Provisions

- A. Purpose and intent. The purpose of the Environmental Protection Overlay Districts (EPODs) is to provide special controls to guide land development located in sensitive environmental areas within the Town. These districts and their associated regulations are designed to preserve and protect unique environmental features within the Town as much as possible, including but not limited to wetlands, steep slopes, floodplains, watercourses.

The regulations for each EPOD District are intended to be imposed in addition to those of the underlying zoning district. The purpose of these regulations is to provide the Town with an additional level of review and regulation for land development within sensitive or unique environmental areas.

- B. Establishment of Districts.

In order to implement the purpose and intent set forth above in this article, the following EPODs are hereby established:

- EPOD 1 Wetland Protection Overlay District
- EPOD 2 Steep Slope Protection Overlay District
- EPOD 3 Stream Corridor Protection Overlay District

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- C. Official maps. The locations and boundaries of all EPODs are delineated on an official set of maps on file in the Town Clerk's office. These maps are known as the "Official Town of Lima EPOD Maps" and include the New York State Department of Environmental Conservation Freshwater Wetland Maps for the Town of Lima and federally designated wetland maps. The Official Town of Lima EPOD Maps shall be used for reference purposes only and shall not be used to delineate specific or exact boundaries of the various overlay districts. The Town has the authority to amend or add to these Official EPOD Maps as necessary. Field investigations and/or other environmental analyses shall be required in order to determine whether a particular piece of property is included within one or more of the overlay districts.
- D. Interpretation of district boundaries.
- (1) The CEO shall be responsible for interpreting EPOD boundaries based upon an interpretation of the Official Town of Lima EPOD Maps, as well as the use of various criteria set forth in this article for determining such district boundaries. The CEO may request the assistance of the Town Engineer or other appropriate board in making a determination.
 - (2) The requirements of the overlay district shall be met in addition to any requirements specified for development in the respective primary zoning district.
- E. EPOD development permit application procedures.
- (1) EPOD development permit. An EPOD development permit is required subject to the provisions of this section and prior to the commencement of any regulated activity or the issuance of any permit for regulated development.
 - (2) The following activities are exempt from the permit procedures of this section, subject to a determination by the CEO or appropriate board that such activities involve necessary normal maintenance and upkeep of property, and/or are clearly incidental to the primary use on the property, and/or involve public health, safety or emergency situations:
 - (a) Lawn care and maintenance.
 - (b) Gardening activities.

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- (c) Tree and shrub care and maintenance.
 - (d) Removal of dead or deteriorating vegetation or trees.
 - (e) Removal of structures
 - (f) Repair and maintenance of structures
 - (g) Repair and maintenance of faulty or deteriorating sewage facilities or utility lines.
 - (h) Reconstruction of structures damaged by a natural disaster
 - (i) Customary agricultural activities in a County Agricultural District.
 - (j) Public health activities, orders and regulations of the New York State Department of Health, Livingston County Health Department or other public health agency.
 - (k) Emergency activity which is immediately necessary for the protection and preservation of life, property or natural resource values.
- (3) Application for permit. Applications for EPOD development permits shall be made in writing to the CEO, on forms available in the Town Clerk's office. The application shall be made by the property owner or his/her agent and shall be accompanied by any materials or information deemed appropriate by the authorized official. The application shall be accompanied by a site plan map and other information as required for site plan approval found in Article IX of this chapter. Each application for an EPOD development permit shall be accompanied by the appropriate fee as determined by the Town Board. This fee shall be in addition to any other fees required.
- (4) Permit review.
- (a) For projects requiring site plan approval, the CEO shall refer the matter to the Planning Board in accordance with the Site Plan Review provisions. The Planning Board shall consider the criteria for an EPOD permit as part of its Site Plan Review and may issue the EPOD permit as part of site plan approval.
 - (b) The Planning Board (for projects that require Site Plan Review) or CEO (for all other projects) shall have the authority to grant or deny an EPOD development

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permit, subject to the standards, criteria and other regulations contained in this chapter.

- (c) Any development permit issued by the CEO or the Planning Board in accordance with the provisions of this article may be issued with conditions. Such conditions may be attached as are deemed necessary to ensure the preservation and protection of environmentally sensitive areas and to ensure compliance with the purpose and intent and the specific provisions of this article. Every permit issued pursuant to this article shall contain the following conditions:

- [1] The CEO or the Town Engineer and/or other designated Town official shall have the right to inspect the project from time to time.
- [2] The permit shall expire within six months of the date issued, if construction is not started, or within one year if there has not been a substantial amount of work completed after the start of construction.
- [3] The permit holder shall notify the CEO of the date on which project construction is to begin, at least five days in advance of such date of construction.

F. Requirement for letter of credit or certified check.

- (1) Following approval of an application for an EPOD development permit, and prior to the issuance of any building or other Town permit, the applicant shall furnish the Town with an irrevocable letter of credit or certified check in an amount to be established by the Town Board after review by the Town Engineer. Said instrument shall be sufficient to cover the costs of compliance, contingencies and inspection of the various specifications and conditions of the development permit. The purpose of the letter of credit or certified check shall be to ensure that all items, activities or structures specified in the plans approved by the authorized boards or agencies and by the Town are constructed or carried out in accordance with such plans and specifications and other appropriate requirements of the Town.
- (2) The irrevocable letter of credit or certified check shall continue in full force and effect until such time as the CEO has certified that, based upon a site inspection, all specifications, requirements and permit conditions have been completed and/or complied with. At such time, the letter of credit or certified check shall be released to

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the applicant. Where the CEO finds noncompliance with permit conditions, said official may deduct or withhold an amount from the letter of credit or certified check sufficient to cover the cost of compliance with any requirements, specifications or permit conditions.

- G. Suspension or revocation of permits. The CEO may suspend a permit (temporarily) until such time as the Board having jurisdiction reviews the suspension. The Board having jurisdiction may suspend or revoke a development permit issued in accordance with the provisions of this article. Suspension or revocation shall be based upon evidence that the applicant has not complied with any or all terms or conditions of such permit, has exceeded the authority granted in the permit or has failed to undertake the project in the manner set forth. The CEO shall, in writing, notify the applicant of this finding and the reasons for revoking or suspending a permit issued pursuant to this article and shall forward a copy of said findings to the applicant.
- H. Conservation restrictions.
- (1) Where a proposed development or subdivision contains an area delineated on the Official Town of Lima EPOD Maps, the Board considering the application has the right to restrict or prohibit the following activities within the EPOD portion of the site:
 - (a) Construction, including but not limited to structures, roads, bridges, drainage facilities, barns and sheds for animals and livestock and fences subject to New York State's Agricultural District Law.
 - (b) Clear-cutting of trees or removal of vegetation or other ground cover.
 - (c) Change in the natural flow of a stream or disturbance of a streambed.
 - (d) Placement of septic or other sewage disposal systems.
 - (e) The use of motorized vehicles, including but not limited to all-terrain vehicles, motorcycles, snowmobiles and motorbikes.
 - (2) Where proposed development results in a conservation restriction being imposed by the authorized board, said restriction shall be noted on the final approved map and filed with the office of the County Clerk and/or the Building Department.

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- I. Appeals. All appeals of decisions made under this chapter shall be made to the Zoning Board of Appeals.

§250-57. EPOD 1: Stream Corridor Protection Overlay District

- A. Purpose and intent.

The purpose of the Stream Corridor Protection Overlay District is to preserve and protect streams and their associated ecosystems within the Town. It is also the intent of these regulations to prevent soil erosion, sedimentation and slope failure due to removal of vegetation, dredging, filling, damming or channelization; prevent degradation or loss of the natural character of the area; and prevent activities which degrade water quality.

- B. Delineation of district boundaries.

The boundaries of the Stream Corridor Protection Overlay District shall be delineated on the Official Town of Lima EPOD Maps. These boundaries shall include the following areas: Spring Brook, Honeoye Creek; and for a distance of 100 feet from the top of each bank.

- C. Regulated activities. No person shall conduct any of the following regulated activities unless such person has first applied for and obtained an EPOD development permit pursuant to the requirements of this section. Customary agricultural operations and watercourse maintenance activities are not required to obtain an EPOD development permit.

- (1) Construction of new buildings or structures or additions to or modifications of existing buildings or structures.
- (2) Construction or placement of any on-site septic or sewage disposal system.
- (3) Filling, cutting or excavation, either on land or within a watercourse or floodplain.
- (4) Removal of natural vegetation.
- (5) Discharge of stormwater and/or construction of a private commercial or municipal stormwater runoff system.
- (6) Construction of driveways, roads, trails or bridges.
- (7) Any activity which would alter the natural flow pattern of the watercourse.

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D. Development standards and permit conditions.

In granting, denying or conditioning any application for an EPOD development permit for activities within a stream corridor, the CEO or the Planning Board shall consider the effect that the proposed regulated activity shall have on the public health, safety and welfare and the protection of the major watercourses within the Town.

- (1) General regulations. Any applicant for a permit to undertake a regulated activity within a Stream Corridor Protection Overlay District shall be required to adequately demonstrate that the proposed activity will in no way at present or at any time in the future adversely affect the following:
 - (a) Water quality.
 - (b) Watercourse flood-carrying capacities.
 - (c) Rate of sedimentation.
 - (d) Rate/velocity of groundwater runoff.
 - (e) Natural characteristics of the watercourse or floodplain.
- (2) Specific standards. No permit to undertake a regulated activity within the district shall be issued by the CEO or the Planning Board unless it determines that the proposed project complies with the following standards:
 - (a) The proposed activity provides adequate measures to prevent disruption and pollution of fish and wildlife habitats and freshwater wetlands, stormwater runoff, septic and sewage systems and any other activity on the site.
 - (b) A natural vegetative buffer of 100 feet from each bank shall be retained adjacent to the watercourses to absorb floodwaters, to trap sediments, to protect adjacent fish and wildlife habitats and to protect scenic qualities.
 - (c) Site preparation, including stripping of vegetative cover or grading, shall be undertaken so that the amount of time that disturbed ground surfaces are exposed to the energy of rainfall and runoff water is limited. Disturbed soils shall be stabilized and revegetated before construction can begin. During the interim, erosion protection measures, including but not limited to vegetation, retention

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ponds, recharge basins, berming, silt traps and mulching, shall be used to ensure that sedimentation is minimized and mitigated.

- (d) The project shall provide adequate measures to protect surface waters and groundwaters from direct or indirect pollution and from overuse.
- (e) Fill shall not encroach on natural watercourses, constructed channels or floodway areas. All fill shall be compacted at a final angle of repose which provides stability for the material, minimizes erosion and prevents settlement.
- (f) Roads, trails and walking paths along water bodies shall be sited and constructed so they are not a source of runoff and sedimentation. Such roads, trails and walking paths shall be constructed and sited in such a manner as to maximize the visual opportunities of a water body while maintaining the scenic qualities of the water body.
- (g) No new dock, boat launching site or fishing access and parking area shall be constructed unless it is shown that it will not impede the natural flow of the streams to which this section applies. Said facilities shall be located and constructed so as to minimize their intrusion into the streams and avoid adverse environmental impact and unreasonable impacts upon public use of the waters.
- (h) New structures, except crossings which are regulated by the New York State Department of Environmental Conservation and/or the United States Army Corps of Engineers, shall not be constructed within 100 feet of the bank of the stream.
- (i) New structures shall be designed and constructed in accordance with accepted Best Management Practices for erosion control and stormwater management.

§250-58. EPOD 2 Wetland Protection Overlay District.

A. Purpose and intent. The purpose of the Wetland Protection Overlay District regulations is to preserve, conserve and protect freshwater wetlands located within the Town, pursuant to the New York State Environmental Conservation Law. It is the intent of these regulations to prevent the despoliation and destruction of freshwater wetlands by prohibiting development within the regulated areas.

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- B. Delineation of EPOD 1 District boundaries. The boundaries of the Wetland Protection Overlay District shall be delineated on the Official Town of Lima EPOD Maps. These boundaries and their regulated buffer areas shall include all areas classified as freshwater wetlands by the NYSDEC, the Federal Fish and Wildlife Agency, or regulated by the United States Army Corps of Engineers. This wetland information may also include, but is not limited to, the Soil Survey Report for Livingston County; field survey maps of flagged wetland boundaries and their buffer areas; and other appropriate sources.
- C. Regulated activities. No person may conduct any development activity within the boundary of any determined federal or state freshwater wetland area or its buffer area in the Town.

§250-59. EPOD 3 Steep Slope Protection Overlay District.

- A. Purpose and intent. The purpose and intent of the Steep Slope Protection Overlay District is to eliminate the impacts of development activities on steep slopes in the Town by prohibiting activities in these areas.
- B. Delineation of district boundaries. The boundaries of the Steep Slope Protection Overlay District shall include all areas of fifteen-percent or greater slopes and all areas within 50 feet of the toe or top of such slopes. In order to more accurately locate and delineate Steep Slope Protection Overlay District boundaries within the Town, the CEO or Town Engineer may consult topographic information which may include, but is not limited to, the Soil Survey Report for Livingston County; topographic maps produced by the United States Geological Survey; field survey maps; and other appropriate sources.
- C. Regulated activities. No person may conduct any development activity within any Steep Slope Protection Overlay District in the Town.

ARTICLE XII: Historic Preservation Overlay District

§250-60. Purpose and Intent

- A. Purpose. As Lima has many significant historic, architectural and cultural resources, which constitute its heritage, this section is intended to:
 - 1. Promote the protection and enhancement of the historic buildings, sites, and districts, which represent distinctive elements of Lima's historic, architectural, and cultural heritage as well as archaeological sites;

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2. Foster civic pride in the accomplishments of the past;
 3. Protect and enhance Lima's attractiveness to visitors and the support and stimulus to the economy thereby provided;
 4. Ensure the harmonious, orderly, and efficient growth and development of the Town.
- B. The Historic Preservation Overlay District is intended to provide an additional advisory review for projects located in or near historically significant districts or sites.
- C. The Historic Preservation Overlay District regulations and procedures are intended to be imposed in addition to those of the underlying zoning district.

§250-61. Boundaries

- A. The boundaries of the Historic Preservation Overlay District shall include all land within 500 feet of the property line of any building or site that is listed in the National Register of Historic Places as depicted on the Town Zoning Map.

§250-62. Establishment of Lima Historic Preservation Commission

There is hereby created a joint commission to be known as the Town and Village of Lima Historic Preservation Commission.

- (A) The Commission shall consist of 5 members and two alternates, to be appointed jointly by the Village Board and Town Board. All members shall have a known interest in historic preservation and architectural development within the Town and Village of Lima.

To the extent available in the community, members shall be appointed as follows:

at least one shall be an architect experienced in working with historic buildings;

at least one shall be a historian;

at least one shall be a resident of a historic district;

at least one shall have demonstrated significant interest in and commitment to the field of historic preservation evidenced either by involvement in a local historic preservation group, employment or volunteer activity in the field of historic preservation, or other serious interest in the field; and

- (B) Commission members shall serve for a term of five years, with the exception of the initial term of one of the 5 members which shall be one year, one which shall be two years, one which shall be three years and one which shall be four years. Alternate members shall serve for a term of three years, from the time of appointment.

- (C) The Chairman and Vice Chairman of the Commission shall be elected by and from among

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the members of the Commission.

(D) The powers of the Commission shall include:

- (i) Reviewing and providing advisory comments on applications for development permits submitted to the Code Enforcement Officer, Planning Board or Zoning Board of Appeals for projects located within the Historic Preservation Overlay District, except that maintenance and repair work that replaces existing materials with same (like and kind materials) does not require referral to the HPC.
- (ii) Employment of staff and professional consultants as necessary to carry out the duties of the Commission, as funds for such work may be budgeted by the Town Board and/or the Village Board of Trustees;
- (iii) Conduct of surveys of significant historic, architectural, and cultural landmarks and historic districts within the Village and Town;
- (iv) The making of recommendations to the Town and Village government concerning the acquisition of facade easements or other interests in real property as necessary to carry out the purposes of this act;
- (v) Increasing public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs;
- (vi) Making recommendations to Town and Village government concerning the utilization of state, federal or private funds to promote the preservation of landmarks and historic districts within the Town and Village of Lima;
- (vii) Recommending acquisition of a landmark structure by the Town and Village government where its preservation is essential to the purposes of this section and where private preservation is not feasible; and

(E) The Commission shall meet at least six times per calendar year, but meetings may be held at any time on the written request of any two of the Commission members or on the call of the Chairman or the Town Board.

(F) A quorum for the transaction of business shall consist of three of the Commission's members.

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§250-63. Procedures for Referral to Historic Preservation Commission

- A. Any application for a building permit, variance, special permit, or site plan review within the Historic Preservation Overlay District shall be referred to the Historic Preservation Commission for an advisory opinion if the proposed development or redevelopment consists of new construction, structural alterations or façade alterations. Maintenance and repair work that replaces existing materials with same (like and kind materials) shall not require referral (i.e., roof replacement).
- B. Within 30 days of receiving the materials, the Historic Preservation Commission shall review the proposal and submit its report to the CEO, the Zoning Board of Appeals, or the Planning Board. Additional time may be permitted upon mutual agreement of the applicant, the CEO, the ZBA or the Planning Board, and the Historic Preservation Commission.
- C. All advisory recommendations of the Commission shall be in writing. A copy shall be filed with the Town Clerk's Office for public inspection.

§250-64. Criteria for Advisory Recommendations

- A. In advising the CEO, Planning Board, or the Zoning Board of Appeals regarding the potential impact of a project on a historic resource, the Historic Preservation Commission shall not consider changes to interior spaces.
- B. The Commission's recommendations shall be based on the following general principles:
 - 1. properties which contribute to the character of a historic district shall be retained, with their historic features altered as little as possible;
 - 2. any alteration of existing properties shall be compatible with their historic character, as well as with the surrounding district; and
 - 3. new construction shall be compatible with the district in which it is located.
- C. In applying the principle of compatibility, the Commission shall consider the following factors:
 - 1. the general design, character and appropriateness to the property of the proposed alteration or new construction;
 - 2. the scale of proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood;
 - 3. texture, materials, and color and their relation to similar features of other properties in the neighborhood;
 - 4. visual compatibility with surrounding properties, including proportion of the property's front facade, proportion and arrangement of windows and other openings within the facade, roof shape, and the rhythm of spacing of properties on streets, including setback;
 - 5. the importance of historic, architectural or other features to the significance of the property.

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ARTICLE XI: Special Use Permit Procedures and Criteria and Other Special Provisions

§250-65. Special Use Permit Procedures and Criteria

A. Procedures

1. As provided by §274-b of the Town Law, the Board of Appeals shall be authorized to issue special use permits for those uses listed in the District regulations as permitted with a special use permit.
2. To assist the Board of Appeals in its determination, an application for a permit under this section shall be accompanied by plans and other descriptive matter sufficient to clearly portray the intentions of the applicant, and such plans and other descriptive matter shall become a part of the record.
3. The Board of Appeals shall refer any request for a special use permit to the Planning Board for a report. Only after receipt of such requested report from the Planning Board or not less than 30 days after such referral in the event of the Planning Board's failure to act and after public notice and hearing under conditions set forth below, the Board of Appeals may authorize the issuance of a special use permit. The entire report of the Planning Board shall be read at the meeting at which the request for the special permit is considered by the Board of Appeals and included in the minutes. In any case where the Board of Appeals acts contrary to the recommendations of the Planning Board, the minutes shall include a resolution adopted by the Board of Appeals fully setting forth its reason for such contrary action.
4. The Board of Appeals shall conduct a public hearing within 62 days from the day an application is received. Public notice of said hearing shall be printed in a newspaper of general circulation in the town at least five days prior to the date thereof. The Board of Appeals shall decide upon the application within 62 days after the hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the board. The decision of the Board of Appeals on the application after the holding of the public hearing shall be filed in the office of the town clerk within five business days after such decision is rendered, and a copy thereof mailed to the applicant.
5. At least ten days before such hearing, the Board of Appeals shall mail notices thereof to the applicant and to the county planning board, as required by §239m of the NYS General Municipal Law, which notice shall be

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accompanied by a full statement of such proposed action, as defined in subdivision one of §239m of the NYS General Municipal Law.

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

B. Conditions.

1. **General Conditions.** Special use permits may be authorized by the Board of Appeals only upon satisfaction in each instance of such conditions as to the general character, height and use of structure; as to the provision of surrounding open space and the treatment of grounds; as to the general fitness of the structure or use to its proposed location; as to the provision for automobile parking or storage; and as to street capacity and use as, in the opinion of the board, may be necessary to safeguard public health, comfort, convenience and as may be required for the preservation of the general character of the neighborhood in which such building and/or structure is to be placed or such used is to be conducted.
2. **Use-specific Conditions.** In addition to the general conditions listed above, the Board of Appeals shall apply the criteria for the approval of specific special permit uses in § 250-65A through §250-71.

§250-66. Wind Energy Systems

A. Purpose

The purpose of this Section is to preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of a wind energy system and to allow for the orderly development of land, protect property values, and aesthetic conditions. This Section does not repeal, annul, impair, or interfere with any existing ordinance or local law.

B. Authority

The Town Board of the Town of Lima enacts this Local Law under the authority granted by:

1. Article IX of the New York State Constitution, §2(c)(6) and (10).
2. New York Statute of Local Governments, § 10 (1) and (7).
3. New York Municipal Home Rule Law, § 10 (1)(i) and (ii) and §10 (1)(a)(6), (11), (12), and (14).

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4. New York Town Law §130(1)(Building Code), (3)(Electrical Code), (5)(Fire Prevention), (7)(Use of streets and highways), (7-a)(Location of Driveways), (11)(Peace, good order and safety), (15)(Promotion of public welfare), (15-a)(Excavated Lands), (16)(Unsafe buildings), (19)(Trespass), and (25)(Building lines).
5. The supersession authority of New York Municipal Home Rule Law §10(2)(d)(3) specifically as it relates to determining which body shall have the power to grant variances under this local law to the extent such grant of power is different than under town law §267.
6. New York Town Law §64(17-a)(protection of aesthetic interests), (23)(General powers).
7. The State Environmental Quality Review Act (“SEQRA”).

C. Intent

The Town of Lima intends to accommodate the use of alternative and sustainable energy sources, including wind, while protecting the quality of life of residential neighborhoods and the viability of existing businesses, including agriculture. These regulations are intended to permit non-commercial wind energy systems subject to suitable restrictions regarding setbacks and height. Commercial wind energy systems are not permitted.

D. Definitions

Non-commercial Wind Energy System - A wind energy system that is operated primarily (51% or more) for on-site (may be for more than one parcel) consumption, and has a nameplate capacity of 50 kW or less, and a total height of 175 feet or less, and a blade length of 30 feet or less. These are also defined as wind energy conversion systems (WECS) or small wind energy production facilities.

Commercial Wind Energy System - A wind energy system that is operated primarily (51% or more) to put energy into the electric grid, and/or has a nameplate capacity of more than 50 kilowatts (kW), and/or a total height of more than 175 feet, and/or a blade length of more than 30 feet.

Electromagnetic Interference (EMI) - The interference to communication systems created by the scattering of electromagnetic signals

Rotor diameter-The largest diameter formed by the blades when assembled and mounted on the wind energy system.

Shadow Flicker - The alternating pattern of sun and shade caused by wind tower blades

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casting a shadow.

Stray Current: is the inappropriate application of current to the ground or earth. For the purpose of this article it is the measurable addition of current to ground resulting from improper installation or deterioration of the electrical portion of a wind energy system. The National Electrical Safety Code set the conditions that grounding connection points shall be so arranged that under normal circumstances there will be no objectionable flow of current over the grounding conductor. The National Electrical Safety Code set the conditions that earth (ground) should not be part of a supply circuit for both safety and service reasons. The most current revision of the National Electrical Safety code shall apply.

Total Height - The vertical distance from ground level to the tip of a wind turbine blade when the tip is at its highest point.

Wind Energy System - Equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, substation, maintenance or control facilities, or any other components used in the system. A wind energy system can consist of one or more wind towers. Wind energy systems do not include small lawn decorations, pond aerators, or remaining portions of mechanical water pumping windmills

Wind Tower - The monopole, freestanding, or guyed structure that supports a wind turbine generator.

E. Compliance

It is unlawful for any person to construct, install, maintain, modify, or operate a wind energy system that is not in compliance with this Section or with any condition contained in a Special Use or Zoning Permit issued pursuant to this Zoning Law.

F. Commercial Wind Energy Systems shall not be allowed in any area or zone within the Town of Lima.

G. Permit Requirements

1. Special Use Permit. A Special Use Permit is required for any wind energy system or a component thereof, except for Non-commercial Wind Energy Systems located in County-adopted, State-certified Agricultural Districts for primary on-farm use.
2. Zoning Permit. A Zoning Permit and Site Plan Review are required for the

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- installation of any wind tower that is part of a wind energy system.
3. Ownership. In cases where the owner of the property is not the applicant/owner of the wind energy conversion system, a clear order of liability will be established. A signed and notarized legal document from the owner of record of the property on which a wind energy system will be located shall be required which acknowledges liability for compliance to all requirements of this law if the applicant/owner of the wind energy system is unable to comply.
 4. Expiration. A permit issued pursuant to this Zoning Law expires if:
 - a. the wind energy system is not installed and functioning within 2 years from the date the permit is issued; or
 - b. the wind energy system is out of service or otherwise unused for a continuous 12-month period.
 5. Fees.
 - a. The application for a Special Use Permit for a Non-commercial Wind Energy System, except for Non-commercial Wind Energy Systems located in County-adopted, State-certified Agricultural Districts must be accompanied by the fee required for a Special Use Permit.
 - b. The application for a Zoning Permit for each tower in a Non-commercial Wind Energy System must be accompanied by the fee required for a zoning permit.
- H. Restoration Requirement (see also Restoration section under Agricultural Mitigation)
1. A wind energy system that is out of service for a continuous 12-month period or any wind energy system found to be unsafe by the Building Code Enforcement Officer and not repaired by the owner to meet federal, state and local safety standards within six months will be deemed to have been abandoned. The Zoning Enforcement Officer may issue a Notice of Abandonment in form of a letter to the owner of a wind energy system that is deemed to have been abandoned. The Zoning Enforcement Officer will withdraw the Notice of Abandonment if the owner provides information within 30 days from the date of the Notice that causes the Zoning Enforcement Officer to determine that the wind energy system has not been abandoned.
 2. The owner of a wind energy system must provide the Zoning Enforcement Officer with a written Notice of Termination of Operations if the operation of a wind energy system is terminated.

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3. Within 3 months of receipt of Notice of Abandonment or within 6 months of providing Notice of Termination of Operations, the owner of a wind energy system must:
 - a. remove all wind turbines, aboveground improvements, and outdoor storage;
 - b. remove all foundations, pads, and underground electrical wires to a depth of 4 feet below the surface of the ground; and
 - c. remove all hazardous material as defined by NYSDEC from the property and dispose of the hazardous material in accordance with federal and state law.
 - d. Ensure that all disturbed areas are decompacted and the topsoil replaced to original depth reestablishing original contours where possible.

I. Special Use Permit or Zoning Permit Requirements.

In addition to those criteria set forth under other sections of this Zoning Law, the Zoning Board of Appeals and the Planning Board shall consider the following factors when setting conditions upon Special Use Permits and site plans issued for all wind energy systems and may hire a professional engineer or consultant to assist in the review of an application at the applicant's expense:

1. Proposed ingress and egress.
2. Proximity to transmission lines to link the system to the electric power grid.
3. Number of wind towers and their location.
4. Nature of land use on adjacent and nearby properties.
5. Location of other wind energy systems in the surrounding area.
6. Surrounding topography.
7. Proximity to residential structures, residential zoning districts, or areas identified for future residential use.
8. Design characteristics that may reduce or eliminate visual obtrusiveness.
9. Possible adverse effects on migratory birds, and other animals and wildlife.
10. Possible adverse effects of stray voltage, interference with broadcast signals, shadow flicker, and noise.
11. Impact on the orderly development, property values, and aesthetic conditions.

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12. Possible adverse effects on groundwater quality or quantity.
13. Recommendations of the County Planning Board.
14. Any other factors that are relevant to the proposed system.

J. Standards.

1. Location.

- a. A wind energy system may be located in any area of the town, provided that setback requirements are met.
2. Set Backs. Each wind tower in a wind energy system must be set back twice the height of each wind tower or ten rotor diameters whichever is longer (as measured from the center of the base of the tower) from the following:
 - a. from any State Forest, public park, or any other area that has been set aside for the sole purpose of preserving a unique wildlife habitat or natural formation recognized by a State, Federal or local government.
 - b. from important bird areas.
 - c. from the property line of the parcel on which the wind tower is located.
 - d. of any public access building that is on any parcel.
 - e. from the right-of-way of any public road
 - f. from any residence or building that is on any parcel
 3. Towers shall be designed and located to minimize visual impact from neighboring properties.

K. Spacing and Density.

A wind tower must be separated from any other wind tower by a minimum distance equal to twice the height of the wind tower and by a sufficient distance so that the wind tower does not interfere with the other wind tower.

L. Structure.

A wind tower must be of monopole construction to the extent practicable. If monopole construction is not practicable, a wind tower must be of freestanding construction to the

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extent practicable. If monopole or freestanding construction is not practicable, a wind tower may be guyed.

M. Height.

The total height of a wind energy system shall not exceed 175 feet. Other maximum building/ structure height restrictions within other sections of this Zoning Ordinance are not applicable.

N. Clearance.

The vertical distance from ground level to the tip of a wind turbine blade when the blade is at its lowest point must be at least 30 feet.

O. Access and Safety.

1. **Security.** A wind tower, including any climbing aids, must be secured against unauthorized access by means of a locked barrier. A security fence shall be required a minimum of 8 feet in height.
2. **Climbing Aids.** Monopole wind towers shall have all climbing aids and any platforms locked and wholly inside the tower.
4. **Operational Safety.** Wind towers shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades and turbine components.
5. **Lightning.** All wind towers shall provide a continuous electrical path to the ground to protect the tower from lightning.
6. **Access Roads.** All wind energy systems shall use existing roads to provide access to the facility site, or if new roads are needed, minimize the amount of land used for new roads and locate them so as to minimize adverse environmental impacts.

P. Electrical Wires.

1. **Location.** All electrical wires associated with a wind energy system must be located underground and must be located in a manner that does not interfere with reasonably expected farm practices (see also Construction section under Agricultural Mitigation).
2. **Transmission Lines.** All wind energy systems shall combine transmission lines and points of connection to local distribution lines.
3. **Substations.** All wind energy systems shall connect the facility to existing

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substations, or if new substations are needed, minimize the number of new substations.

4. Stray Current- Properly installed wind energy systems will not generate this form of electrical pollution often referred to as stray or ground current. A measurement of stray current before and after installation to insure no gain in existing electrical pollution is required for all wind energy systems over 10kw. Wind energy systems of any size may be measured on an on/off basis to resolve any complaint of electrical pollution. Mitigation must be immediate with the wind energy system shut down until complete. Compliance to National Electric Safety Code for both installation and testing protocol is required. The Code Enforcement Officer shall inspect wind energy systems every two years, or upon request, to ensure that this requirement is adhered to.
- Q. Lighting. A wind tower and turbine may not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA), other governmental agency, recognized safety guidelines (i.e. Mercy Flight), or the Planning Board. If lighting is required, the lighting must comply with FAA minimum requirements and, whenever possible, be at the lowest intensity allowed. If more than one lighting alternative is available, the Town planning board reserves the right to choose the least obtrusive lighting option available.
- R. Buildings and Outdoor Storage. Any ancillary buildings and any outside storage associated with a wind energy system must, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment (i.e. in an agricultural setting accessory buildings could be designed to look like barns). Appropriate landscaping or architecture shall be provided to screen accessory structures from roads and adjacent residences.
- S. Aesthetics.
1. Appearance, Color, and Finish. The exterior surface of any visible components of a wind energy system must be a nonreflective, neutral color.
 2. Visual Impact Assessment. The applicant shall complete a Visual Environmental Assessment Form (Visual EAF - SEQR), as well as a visual impact assessment of any proposed wind energy systems or any proposed modifications to existing wind energy systems. The visual impact assessment shall include assessment of visual impact from abutting properties and streets of the tower base, guy wires, accessory buildings and any other element of the wind energy system identified by the Town or County Planning Board or Town Board.

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- T. **Signs.** No wind tower, turbine, building, or other structure associated with a wind energy system may be used to advertise or promote any product or service. A weather resistant sign plate no greater than 2 sq. ft. in size containing the current owner or operator, emergency phone number, and current address of such owner/operator shall be located on the exterior surface of the tower or of the fence surrounding each tower and viewable by a Zoning Enforcement Officer. No other word or graphic representation, other than appropriate warning signs, may be placed on a wind turbine, tower, building, or other structure associated with a wind energy system so as to be visible from any public road.
- U. **Noise.** Audible noise due to the operation of any part of a wind energy system shall not exceed 45 decibels (dBA) for any period of time, when measured at any residence, school, hospital, church, public park, public library or place of public assembly. Audible noise due to the operation of any part of a wind energy system shall not exceed 30_decibels (dba) when measured inside any residence.
- V. **Electromagnetic Interference (EMI)**-no individual tower facility shall be installed in any location where proximity with existing broadcast, retransmission or reception antenna (including residential antenna) for radio, television, wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. Alternatively wind energy systems shall be properly filtered or shielded in order to avoid electromagnetic interference and shall comply with rules and regulations of the Federal communication Commission contained in 47 CFR parts 15 and 18.
- W. **Insurance.** Prior to issuance of a building permit, the applicant shall provide the Town proof of a level of insurance to be determined by the Town Board in consultation with the Town's insurer and Attorney, to cover damage or injury that might result from the failure of a tower or towers or any other part or parts of the generation and transmission facility. If the insured is not the owner of the property the applicant, must show the owner of the property as co-insured and must allow for the property owner to continue coverage if the applicant is unable to continue coverage.
- X. **Tax Exemption.** The town hereby exercises its right to opt out of tax exemption provisions of Real Property tax law 487, pursuant to the authority granted by paragraph 8 of that law.
- Y. **Inspections.** Town code enforcement officer or designated representative shall have the right at any reasonable time to enter the premise on which a wind energy system has been placed to inspect any and all parts of said installation. After conducting said inspection the code enforcement officer may order the owner of the wind energy system to render it inoperative for reasons related to safety noise, electrical pollution or electromagnetic

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interference. If unable to contact owner the code enforcement officer may execute an emergency shut down procedure which has been provided in advance by the owner/applicant in the form of a clear and concise check sheet as part of the permit process. All liability for the execution of an emergency shutdown shall be with the owner of the wind energy system.

- Z. Penalties. Any person, firm corporation or entity which may violate any provision of this article shall be guilty of a violation and upon conviction thereof, shall be subject to the penalties set forth in this Code. Any person, firm corporation or entity which may violate any provision of this article shall become liable to the town for any actual expense or loss or damage occasioned by the town by reason of such violation, in addition to any actual losses or damages sustained by the town, such expense shall also include but not be limited to statutory costs, disbursements and reasonable attorney fees in the event legal action is commenced to enforce this article. The imposition of penalties herein prescribed shall not preclude the town or any person from instituting appropriate legal action or proceedings to prevent a violation of this article or to restrain or enjoin the use or occupancy of premises or any part thereof in violation of this article.
- AA. Severability. The provisions of this section are severable, and the invalidity of any section, subdivision, paragraph, or other part of this Zoning Ordinance shall not affect the validity or effectiveness of the remainder of the Zoning Ordinance.

§250-67. Setback Exceptions for Private Garages on Steep Slopes

Where the topography is such that the slope of the land exceeds 15% and, therefore, access to a private garage built back of the front building line as required by this chapter is impracticable, it shall be permissible to place such building not exceeding 12 feet in height within the front yard space, but not closer to the street line than 18 feet.

§250-68. Motels

Motels, where allowable under this chapter, shall conform to the following requirements:

- A. Each rental structure shall contain at least eight rental units.
- B. Automobile parking space to accommodate not less than one car for each rental unit plus one additional space for every two persons regularly employed on the premises. In addition, if the motel includes restaurants, taverns or meeting rooms as accessory uses, parking for these uses shall be provided as required by §250-77.

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- C. Each rental unit shall be supplied with hot and cold running water and equipped with a flush toilet. All such fixtures and those of any accessory uses shall be properly connected to the Town water and sewer system or approved water and septic system.

§250-69. Mobile Homes

The following shall apply in addition to all other regulations of the Town with respect to mobile homes:

- A. No mobile home shall be parked and occupied outside an approved mobile home court for more than 48 hours except upon a special permit issued by the Code Enforcement Officer. Such permit shall be issued for a period not to exceed 30 days and shall not be renewable within the same calendar year. **(Amended 11-3-1988)**
- B. Any mobile home which is so situated as not to conform to the terms of this chapter shall not be replaced on its site by any other mobile home. **(Amended 11-3-1988)**

§250-70. Mobile Home Parks (Amended 6-13-1991)

A. General

- (1) Mobile home parks may be maintained, expanded or created within the Town of Lima within an agricultural district as a special exception or permitted use. The expansion of existing mobile home parks shall be accomplished by compliance with the procedural requirements of §250-65 of this chapter and by demonstration that all of the supplemental regulations and requirements of this section shall be met or exceeded.
- (2) It is the purpose of this section to provide minimum standards, regulations and requirements for development or expansion of new or existing mobile home parks. Nothing herein shall be interpreted or construed to suggest that the minimum standards set forth may not be varied by the developer of a new or expansion mobile home park in any manner that will reduce lot density, provide additional amenities or exceed the minimum standards in demonstrable fashion satisfactory to the Town of Lima. Nevertheless, under no circumstances shall the minimum standards be waived, reduced or abridged by the developer or any instrumentality of the Town of Lima.
- (3) This Section shall not apply to nor be construed so as to permit the placement of mobile home or collection of fewer than 10 mobile homes upon a parcel of land. It is intended that this Section shall apply only to new or expanded mobile home parks. This section supplements existing or future ordinances, local laws, rules or regulations governing existing mobile home parks or mobile homes individually situate upon parcels of land as of the date of the enactment hereof. All local and state

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laws, rules, regulations and like legislation pertaining to standards pertinent to mobile homes, including but not limited to their construction, placement, fire rating, use and all other issues pertinent or applicable to the maintenance thereof are supplemental to this chapter and shall remain in full force and effect, as amended from time to time.

B. Procedure

- (1) The proponent of any prospective mobile home park expansion or new mobile home park development must first follow and comply with the requirements of §250-65 of this chapter. Subsequent to satisfactory completion of the requirements for §250-65 the proponent of each new or expansion mobile home park must submit to the Planning Board for its review and approval a professionally prepared instrument survey map of the proposed mobile home park, which survey map shall show the metes and bounds of said area. Additionally, a professionally prepared plan shall be produced by the proponent of said mobile home park, substantially depicting the location of the utilities, amenities, roads, improvements and mobile home sites or lots to be situate thereon. As used in this section of this chapter, the term “professional” is intended to mean a person or firm qualified by experience and current New York State licensure to prepare such maps and site plans. The purpose of this requirement is to conclusively establish compliance with the requirements and standards of this section to the reasonable satisfaction of the Planning Board.
- (2) The Planning Board shall, in its reasonable discretion, be permitted to require reconfiguration of improvements, amenities, roads, utilities and mobile home sit locations.
- (3) Satisfactory completion of said survey and plan shall be evidenced by signature and approval for the Chairman of the Planning Board, and said survey and plan shall at minimum be placed in a permanent file to be maintained by the Town.
- (4) It is expressly established that the requirements and procedures of this chapter are supplemental to any laws, rules or regulations now or hereafter promulgated by the County of Livingston or any instrumentality of the State of New York. In such instance where the requirements for this chapter shall exceed any county or state requirements, it is intended that this chapter shall control.

C. Tract requirements

- (1) The minimum size of a new mobile home park or tract shall not be less than 50 acres. Expansions of existing mobile home parks upon contiguous lands shall not be less than 20 acres in size. A mobile home park must include or comprise a minimum of

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- 10 mobile homes in order to be classified as a new mobile home park. Any extension of an existing mobile home park shall be governed by this section.
- (2) Any new or expanded mobile home park shall front upon a primary or collector road. A minimum required frontage of 400 feet thereon shall be required for any new mobile home park. The expansion of an existing mobile home park shall meet the same minimum frontage requirement if said expansion is accomplished throughout the purchase of new land for expansion from one or more parties controlling adjacent frontage or if the owner of said park controls or owns said frontage.
 - (3) A front setback of at least 300 feet from the center line of the fronting public road shall be maintained, such that the nearest structure or mobile home lot of said park shall not be nearer to the center line of said road than 300 feet. Within the setback area shall be a landscaped buffer area, which shall contain trees and bushes and plantings of substantial size and number sufficient in the reasonable discretion of the Planning Board. If not otherwise prohibited because of drainage or like difficulties, the developer may also make use of swales and earth bulwarks for screening purposes. The buffer area shall be planted in grass or low ground cover and mowed or maintained by the mobile home park owner at all times to maintain a tidy and presentable appearance.
 - (4) A setback of at least 75 feet from any adjacent property line shall be established and the requirements set forth in Subsection C(3) pertaining to the development and maintenance of a landscaped buffer area shall apply to said setback areas.
 - (5) Any new or expansion mobile home park shall be located and laid out so that no mobile home shall be closer than 500 feet to any existing single-family detached or two-family dwelling.
 - (6) All interior roads shall be improved to the construction standards for minor streets set forth in the Chapter 220, Subdivision of Land for the Town of Lima.
 - (7) Entrances and exits shall be so located to provide a minimum sight distance on the adjacent public road in both directions from the interior road(s) at the point of intersection of not less than 300 feet.
 - (8) Any new or expansion mobile home park shall provide a water reservoir or an approved water supply system for fire-protection use, which shall be certified as adequate by the Lima Fire Department. Public water supplies shall be utilized if available.

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- (9) Any new or expansion mobile home park shall set aside 20% of the total acreage of the site as open space and recreation area. A portion of such area shall be set aside for and equipped as a playground. A building shall be constructed within such area for the common use of residents for recreational purposes and for storage space. Such building shall not contain less than 800 square feet of gross floor area or less than five square feet for each mobile home lot created within the park.
- (10) Sidewalks shall be constructed along at least one side of all interior streets having a minimum width of three feet in accordance with specifications of the Town Engineer. All such interior use roads shall be posted to maximum speed of 15 miles per hours.
- (11) Appropriate street lighting shall be installed on interior streets with the minimum number of lights being one at each intersection of interior street with each other or with abutting public road and one at least every 200 feet where such intersections are more than 200 feet apart. The specific type or variety of street lighting poles and/or fixtures shall be specified by the Planning Board in its reasonable discretion.
- (12) Adequate collector areas for refuse and trash shall be provided, with a minimum of one such site for each 10 mobile homes. Such refuse or trash-collector areas shall be fully enclosed with a board fence not less than eight feet in height and vegetative screening deemed adequate by the Planning Board in its reasonable discretion. One width-end may be unenclosed to provide access for trash-collection vehicles. All refuse and trash shall be deposited in such areas and shall not be accumulated or stored on mobile home sites. At minimum, each refuse area must be emptied weekly.

D. Lot requirements

- (1) Density of more than five mobile homes per acre of land shall not be permitted, and no mobile home lot or site shall have an area of less than 6,000 square feet. Lot width and size may vary. Each lot must be located on an interior roadway. All mobile homes must be situate on said lot or site so as to be no closer to the interior roadway than 45 feet. The minimum width of each lot shall be no less than 50 feet. The minimum depth of each lot shall be not less than 100 feet. For purposes of clarity, this chapter does not permit a lot which shall conform to the minimum width and depth specified; rather one or the other minimum dimension shall be acceptable.
- (2) No mobile home shall be closer than 20 feet to another mobile home or other structure within the park.
- (3) Not more than one mobile home may be placed on any lot or site, and there shall be no detached accessory structures on a lot or site.

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- (4) Each lot or site shall be provided with approved connections for water and sewer, in accordance with the regulations of the Livingston County and New York State Departments of Health, and electricity and telephone.
- (5) A surfaced parking pad shall be provided on each lot or site for one mobile home and two automobiles, with hard-surfaced driveway minimum of 156 feet wide extending from edge-of-road pavement to carport pad.
- (6) At least three shade trees of not less than two inches in diameter one foot above ground level shall be planted on each lot or site. Two of the three shade trees shall be planted and located along the interior roadway within 15 feet of the front lot line.
- (7) No boats, campers, travel trailers or recreational vehicle shall be parked or stored at any place within a mobile home park except in areas designated and approved for such storage as part of the site plan approval. Such areas shall be screened with fencing or vegetative screening of sufficient height, size and type as shall be acceptable to the Planning Board in its reasonable discretion. No unregistered or unlicensed motor vehicles shall be situate on the premises.
- (8) No front or side yard of any lot or site shall be used for storage purposes.
- (9) Home occupations shall not be permitted within a mobile home park. Only residential use shall be authorized.

E. General requirements

- (1) Permit for a mobile home park
 - (a) It shall be unlawful within the Town for any person or persons to construct or operate a mobile home park without first securing a written license from the Town Board and complying with the regulations of this Chapter.
 - (b) The application for such annual license or the renewal thereof shall be filed with the Town Clerk and shall be accompanied by a fee set from time to time by resolution of the Town Board. Said mobile home park permit fee shall be reviewed annually by the Town Board and is subject to increase by resolution of said Town Board without requirement to amend this chapter. Thereafter, each mobile home shall be assessed on the tax rolls of the Town against the mobile home park owners in accordance with §102 of the New York Real Property Tax Law. No other fees shall be charged against the mobile home owner; provided, however, that each mobile home is assessed and placed on the tax rolls. And the school, county, Town or state taxes have been paid for

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the current year. In the event that each mobile home is not on the tax rolls and the tax not paid for the current year, the mobile home park owner shall pay a monthly fee for each month or any portion thereof that each mobile home occupied a mobile home space and the monthly fee therefore shall be paid at the commencement of each month. **(Amended 11-6-1997 by L.L. No. 3-1997)**

- (c) The application for a license or renewal thereof 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 person other than the applicant, a duly verified statement by the person that the applicant is authorized by him to construct or maintain the mobile home park shall accompany the application). Each license or renewal thereof shall expire on the 31 day of December following the issuance thereof.

(2) Inspection

- (a) Before the new mobile home park or mobile home park extension commences operation, the Code Enforcement Officer shall make an inspection of the premises to determine that all requirements of this chapter have been complied with and shall issue a certificate of occupancy. No use shall be permitted until such a certificate has been issued.
- (b) The Code Enforcement Officer shall be authorized to inspect the premises at will for code compliance determination, but shall inspect no less than once each year. If the inspection shall yield any violation, the Officer shall notify the owner or operator of the mobile home park thereof, in writing. The owner or operator shall have a maximum of 10 days in which to cure or satisfy such violation. Failure to cure or satisfy such violation within the prescribed period shall entitle the Code Enforcement Officer to suspend the owner or operator's permit to operate the mobile home park.
- (c) If such violation(s) shall continue, the Town Board shall be authorized to revoke such license and order the mobile home removed or the mobile home park closed after notice and an opportunity to be heard.

(3) Registration

- (a) The park shall keep a record of all residents and occupants, noting:
 - [1] The name and permanent address of each occupant

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[2] The license numbers of all units or mobile home serial number

[3] The state issuing such license

(b) The park shall keep a copy of the registry available for inspection at any time by any authorized person.

§250-71. Motor Vehicle Repair Garages; Parking and Storage Garages; Motor Vehicle Service Stations

- A. No public garage or motor vehicle service station or private garage for more than five cars shall have a vehicular entrance closer than 200 feet to an entrance to a church, school, theater, hospital, public park, playground or fire station. Such measurement shall be taken as the shortest distance between such entrances across the street, if the entrances are on opposite sides of the street, and along the street frontage if both entrances are on the same side of the street or within the same square block.
- B. All motor vehicle service stations shall be so arranged as to require all servicing on the premises and outside the public way; and no gasoline pump shall be placed closer to any side property line than 50 feet or closer to any street line than 10 feet.
- C. No inoperative motor vehicles shall be kept on the premises of a motor vehicle service station for longer than two weeks.
- D. All waste material shall be stored within a structure or enclosed with fencing so as not to be visible from off the property.
- E. On any streets which provide access to gasoline pumps, all repair facilities shall be at least 15 feet farther from the street line than the side of the gasoline pumps farthest from the street line.

§250-72. Signs and Billboards (Amended 8-18-1988; 12-2-1993)

- A. Purpose and Intent
 - (1) Protect and enhance Town appearance.
 - (2) Encourage appropriate and compatible commercial speech signs and graphics.
 - (3) Lessen objectionable competition in commercial speech sign size and placement.
 - (4) Reduce the hazards of sign obstructions and distractions to motorists.
 - (5) Create a more attractive business environment.
 - (6) Protect the value of buildings and properties.

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B. General provisions. Signs are an accessory use only. Signs are not permitted as a principal use. Wherever located and whatever their nature, signs shall conform to the following:

- (1) No attached sign shall extend within a street or road property line, unless said line is the building line, in which case signs may extend over the street or road property line for a distance not exceeding four feet.
- (2) No freestanding sign larger than eight square feet shall have less than three feet of open space at the bottom extending its entire length.
- (3) No sign shall exceed 10 feet in height, as measured from the top of said sign to the ground, including any pole or attaching structure or extend above the façade of the building to which it is attached.
- (4) Freestanding signs shall not be located within 10 feet of the legal right-of-way of the abutting public road.
- (5) Advertising display upon a building or other surface shall be governed by the above regulations.
- (6) No new off-premises advertising signs or billboards shall be erected or permitted in any zone within the Town of Lima, except for those advertising a farm operation located within a County Agricultural District.

C. Rules for measuring signs

- (1) Back-to-back signs or signs arranged back-to-back diverging by less than 30° from a common point may be counted as one sign.
- (2) The area of a sign consisting of insignia or other design, but without background, shall be calculated as the smallest circle possible of enclosing the insignia.

D. Design and lighting of signs

E. Maintenance of signs. All signs, sign finishes, supports and electric work shall be kept clean, neatly painted and repaired and free from all hazards such as but not limited to faulty wiring and loose supports, braces, guys and anchors.

F. Nonconforming signs.

- (1) Nonconforming signs shall not be altered, rebuilt, enlarged, extended or relocated, unless such action changes a nonconforming sign to a conforming sign as provided herein. The failure to keep any such nonconforming sign in good repair within 30

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- days after due notification by the Code Enforcement Officer shall constitute abandonment of the sign. An abandoned sign shall not be reused and shall be removed by or at the expense of the property owner within 30 days of a demand from the Code Enforcement Officer.
- (2) If a project subject to development review is proposed for a parcel upon which a nonconforming sign is located, the reviewing board or agency shall require that said nonconforming sign(s) be brought into compliance as a condition of approval of the proposed development review(s).
- (3) Any sign that advertises a business that has been closed for more than six months shall be removed at the expense of the property owner within 30 days of a demand from the Code Enforcement Officer.

G. Design Standards

All signs erected and maintained in the Town of Lima shall be in accordance with the following sign design standards:

- (a) Signs that make use of or display moving or changing letters, symbols, pictures or messages, whether illuminated or non-illuminated, and self-illuminated signs (other than those with a light source concealed behind translucent glass, plates or similar material) or the use of flashing or intermittent lighting in connection with signs shall not be permitted. These provisions shall not be applied so as to prohibit a sign changing to show time or temperature.
- (b) Commercial speech signs and their supporting structures should be in harmony in style and scale with the architectural features of the buildings on which they are placed or to which they relate.
- (c) Signs should be appropriate to the types of activities they represent.
- (d) Layout should be orderly and graphics should be of simple shape, such as rectangle, circle or oval.
- (e) No more than two typefaces should be used on any one sign or group of signs indicating one message.
- (f) The number of colors used should be the minimum consistent with the design.
- (g) No sign in a residential district may be illuminated.
- (h) If exterior sign lighting is provided, it shall be arranged to reflect away from the surrounding property and away from the public way, and shall illuminate the sign from above.

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- (i) The intensity of the light source shall not exceed that necessary to illuminate and make legible a sign from the public ways.
- (j) No sign shall be internally illuminated.
- (k) Groups of related signs should express uniformity and create a sense of harmonious appearance.

H. Sign Permit Procedures

- (1) Permit required. A sign permit shall be required prior to erecting a sign within the Town of Lima, except as provided below.
- (2) Exceptions: The following signs shall not require a permit;
 - (a) Noncommercial speech signs, as defined and regulated in this section.
 - (b) Signs advertising the sale, lease or rental of the premises upon which the sign is located, which sign shall not exceed six square feet in area. One such sign shall be permitted per premises. Where such signs are associated with a townhouse or condominium unit, the sign placement shall be set back at least five feet from the public way directly in front of the unit.
 - (c) Temporary window signs
 - (d) One sign, not exceeding six square feet, bearing a legend such as "Open" or "Open for Inspection," on a premises being advertised for sale.
 - (e) Two signs, not exceeding six square feet each, bearing a legend such as "Open" or "Open for Inspection," at locations other than the premises being advertised for sale. Such signs may be located within the right-of-way (between the curb and sidewalk) of the two closest intersecting streets, provided that they are placed so as not to interfere with sight distances. Each sign shall not be more than three feet in height.
 - (f) Traffic control signs. Signs such as "No Parking," "Reserved Parking," "Parking Reserved for Handicapped Parking" and the like may be erected for commercial uses outside of the road right-of-way without a permit. The size of each such sign shall be limited to 1.5 square feet.
 - (g) The following temporary commercial speech signs, provided that such signs are be executed as a ground sign or be affixed to a building:
 - i. Temporary signs on temporary buildings for uses incidental to construction work, provided that such signs are removed when the buildings are removed or upon completion or abandonment of the construction work. Such signs shall not exceed 20 square feet in area.

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- ii. One ground or wall temporary site development sign, to identify a development of real property, subject to the following conditions:
 - a. The maximum sign area shall be 20 square feet.
 - b. A ground sign shall be allowed only for and during the development of a vacant site.
 - c. A wall sign shall be allowed only for and during the redevelopment of an existing structure.
 - d. A ground sign shall be no higher than six feet above average grade, and a wall-mounted sign shall be no higher than 10 feet above average grade.
 - e. A temporary site development sign shall be oriented towards the public way in front of the site.
 - f. The information permitted is limited to project name, primary real estate agent, financial investors, general contractor, subcontractors, builder and architect and may include the words "Now Accepting Reservations" and a telephone number.
 - iii. No sign erected pursuant to this subsection shall remain after the issuance of the last certificate of occupancy for the project, termination of work on the project or 12 months from the date of sign erection, whichever occurs first.
- (h) Municipal signs.
- (i) Repainting or refacing of a conforming commercial speech sign, provided that the copy or logo does not change.
 - (j) Replacement of commercial speech copy on a conforming commercial speech sign with noncommercial speech copy.
- (3) Sign permits; issuance by Code Enforcement Officer.
- (a) The Code Enforcement Officer shall have the authority to issue sign permits for any commercial speech sign permitted in any zoning district as specified in this Section.
 - (b) The Town of Lima Planning Board shall have the authority to approve all sign permit applications in conjunction with Site Plan Review for signs associated with a project that requires site plan approval.

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- (c) The Code Enforcement Officer shall have the authority to approve a modification to an approved sign site plan, provided that there is no change to either the number, location or total area of signs.

I. Permitted signs

(1) In Land Conservation Districts

- (a) A sign of an appropriate nature, but not larger than eight square feet, identifying any building or use permitted under this chapter.
- (b) A real estate sign, not larger than 12 square feet, only when placed on property for sale or rent.
- (c) A sign necessary for the identification of a public utility installation.
- (d) Signs incident to a legal process or necessary to the public welfare.
- (e) Non-commercial speech signs

(2) In Residence Use Districts

- (a) Any sign permitted in Land Conservation Districts.
- (b) One home occupation sign not exceeding two square feet in area.
- (c) Temporary special event signs on site or premises of a special event sponsored by a church or other nonprofit institution. "Temporary" shall mean a period not to exceed 20 days from the first such date of display.

(3) In Agricultural Use District A

- (a) Any sign permitted in Land Conservation Districts.
- (b) Any sign validly erected and permitted in accordance with a special permitted use approved by the Zoning Board of Appeals and Planning Board, as indicated in this chapter.
- (c) No signage will be permitted in connection with a farm stand or farm market use except as permitted in the section of this chapter governing such use.

(4) In General Business Use District B

- (a) Signs as permitted in Residence Use Districts.

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- (b) The type and quantity of signs permitted in General Business Use District B shall be authorized as set forth in §250-72 and 73 of the Code of the Town of Lima. **(Amended 1-21-2005)**
 - (c) The requirements set forth in this Code I §250-72 and 73 shall continue to apply to the regulated signage permitted in the General Business Use District B
- (5) In Planned Development Districts. Signs permitted in Planned Development Districts shall be limited to non-commercial speech signs and signs which relate, as determined by this chapter, to specific uses authorized in established Planned Development Districts.
- (6) In Industrial Use Districts
- (a) The type and quantity of signs permitted in Industrial Use District shall be authorized as set forth in §250-72 and 73 of the Code of the Town of Lima. **(Amended 1-21-2005)**
 - (b) One home occupation sign not exceeding four square feet in area.
 - (c) The requirements set forth in this Code §250-72 and 73 shall continue to apply to the regulated signage permitted in the Industrial Use District. **(Added 1-21-2005)**
- J. Non-commercial speech signs
- (1) Noncommercial speech signs may be allowed on any residential lot provided that such signs do not interfere with vehicle sight distances from, along or to a public way.
 - (2) Noncommercial speech signs in commercial and industrial districts.
 - (a) In lieu of commercial copy, any conforming commercial speech sign may have placed upon it noncommercial speech copy.
 - (3) Noncommercial speech signs for nonresidential, noncommercial and nonindustrial uses may be allowed in any district without a permit provided that such signs do not interfere with vehicle sight distances from, along or to a public way.

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§250-73. Signs Permitted in General Business Use District and Industrial Use District (Added 1-21-2005)

The following regulations shall apply to all commercial speech signage to be located in the General Business Use District and in the Industrial Use District areas located within the Town of Lima.

- A. Business identification signs. On any single parcel or lot, unless specifically noted otherwise, only one of the following types of signs shall be permitted to be erected subject to the requirements and conditions noted:
- (1) Wall signs. A wall sign is attached to the wall or face of a building. It may be composed of lettering and symbols affixed directly to the structure, or may be a separate sign.
 - (a) One wall sign not to exceed two square feet for each linear foot of width of the front of the wall of the building, or portion of the building occupied by the business, or a maximum of 60 square feet, whichever is less. For buildings set back more than 100 feet from the front property line, an additional 10 sq. ft. of sign area shall be permitted for each 10 feet of additional setback.
 - (b) For multiple-story buildings, wall signs shall only be permitted on the ground floor.
 - (c) The sign should identify the owner of enterprise conducting the business, the business engaged in upon the premises or products or services sold, or any combination of these.
 - (d) Where a building has frontage on more than one street or public highway, one wall sign is permitted for each street frontage
 - (e) A wall sign may be used to identify more than one occupant or tenant of a multiuse building, provided that the total permitted area of a wall signage is not exceeded. In the event that more than one business or occupant or tenant is identified, each such business or occupant or tenant must utilize a portion of the one permitted wall sign. The various signs comprising the wall sign area are required to be similar in form, such that they collectively appear to be one wall sign.
 - (f) In the event that more than one building is located on a single parcel or lot, each building may have a wall sign, except that only one such wall

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sign shall be permitted if only one business or occupant uses or operates within such separate buildings.

(g) In the event that the wall sign is not attached directly to the building wall, but is intended to project there from the following additional requirements shall apply.

(1) Such sign or signs shall not project more than two feet from the wall to which they are connected.

(2) Such sign shall be at least eight feet to the bottom of the sign above the ground level immediately below and shall not in any way interfere with normal pedestrian or vehicular traffic.

(3) There shall be not more than one projecting sign for each business or public entrance.

(4) The supporting structure shall not be included in calculation of the sign area.

(2) Awnings and/or canopy signs. Awnings and/or canopy signs are movable or fixed ornamental roof-like structures extended from the face of a structure and constructed of durable materials, including fabrics, which may contain their own illumination and may display lettering or other business insignia. No part of any awning or canopy shall:

(a) Project more than three feet from the structure face to which it is attached.

(b) Extend above the height allowed for structures in the respective zoning districts.

(c) Extend into any setback areas.

(d) Be lower than eight feet above the ground elevation of the wall face of the structure to which it is attached.

B. On-premises free standing sign. In addition to the permitted signage allowed pursuant to Subsection A of this section, one freestanding on-premises business sign shall be permitted, pursuant to the following requirements and conditions:

(1) The freestanding sign must display the name(s) of the business or businesses located on said parcel of land, and may briefly signify the type of business conducted. For example, the business name may be followed by a designation

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such as “professional land surveyors and engineers,” “print shop,” “fabric shop,” etc.

- (2) Such sign shall be no larger than 60 square feet in area and shall not project more than 10 feet in height above the natural grade upon which the sign is located.
 - (3) The proposed sign’s construction shall complement the architectural style and materials for the building it will serve.
 - (4) The proposed sign shall be subject to Planning Board review through the site plan approval process. In determining the design, location and hours of illumination, the Board shall be guided by other pertinent sections of these regulations.
 - (5) Only one such sign shall be permitted on each lot or parcel. In the case of a lot occupied or intended to be occupied by multiple business enterprises (i.e., a community shopping center or plaza), one freestanding sign indicating the name of the development, and the individual businesses with a short designation of the nature of each such business, shall be permitted.
 - (6) Such a sign may be double-faced.
 - (7) All freestanding signs shall be located at least 10 feet from any property line. Where property abuts a public right-of-way, the freestanding sign shall be set back at least 10 feet from the legal right-of-way line.
 - (8) The location of the sign shall be situated so as not to interfere with visibility for vehicular/pedestrian traffic entering or leaving the lot or traveling on any street.
- C. Directional signs. Signs which are provided exclusively for direction shall be permitted, provided that such sign(s) do not exceed two square feet in area. Such signs may indicate the entrance and exit to the property and location of parking. Such signs shall not project more than four feet in height above the natural grade on which the sign is located and shall be no closer than five feet to any property line.
- D. Temporary advertising or promotional banners. Temporary advertising or promotional banners shall be permitted subject to the following restrictions and qualifications:
- (1) Only one such sign shall be displayed by any business at one time.

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- (2) The size of any such banner shall not exceed 10 feet in length or three feet in width.
 - (3) No temporary advertising banner shall be permitted to be in place for a period exceeding six weeks, and in any one year such special banners shall not be permitted for an aggregate period exceeding twelve weeks.
- E. No sign permit shall be required for such temporary advertising or promotional banner. Sandwich board style signs are prohibited.

§250-74. Temporary Uses and Structures

Temporary permits may be issued by the Code Enforcement Officer for a period not exceeding one year for nonconforming uses incidental to housing and construction projects, including such structures and uses as storage of building materials and machinery, the processing of building materials and real estate office located on the tract being offered for sale, provided that such permits are conditioned upon agreement by the owner or operator to remove the structure or structures or use upon expiration of the permit. Such permits may be renewed yearly upon application to the Code Enforcement Officer for an additional period of one year.

§250-75. Non-Conforming Uses, Building and Structures

- A. Continuation of nonconforming use. Except as provided in Subsections B and C of this section, any use of the land or a building or structure or part thereof existing at the time that this chapter or any amendment hereto becomes effective may be continued, subject to the provisions of Subsections D, E and F of this section, although such building or structure or use does not conform to the provisions of the district in which it is situated.
- B. Discontinuance of use. When a nonconforming use has been discontinued for a period of not less than one year, it shall not thereafter be reestablished, and the future use shall be in conformity with the provision of this chapter.
- C. Automobile wrecking and junkyards. Notwithstanding any other provision of this chapter, any nonconforming automobile wrecking yard or other junkyard in existence at the time of the adoption of this chapter or any amendment thereto shall be discontinued within three years from the date of such adoption or amendment.
- D. Change of nonconforming use. No nonconformance use shall be changed to other than a conforming use for the district in which it is situated.
- E. Maintenance of a nonconforming use. A nonconforming use is hereby required to be maintained in such condition as will not constitute a danger to the safety, health or

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- general welfare of the public. Alterations and extensions of the nonconforming use in order to comply with the provisions of this section are permitted, provided that such alteration or extension shall not tend to increase the inherent nuisance, nor shall such alteration or extension violate any provision of this chapter regarding setbacks, lot area or lot coverage for the district in which it is situated or increase any existing violation of such provision.
- F. Any building or structure containing a nonconforming use or any structure consisting of a nonconforming use which is damaged by fire, flood, wind or other act of God or man to the extent of 50% or more of its fair sales value immediately prior to damage shall not be reoccupied, reused and/or reconstructed, except in conformity with the provision of this chapter.
- (1) In the event that the Code Enforcement Officer's estimate of the extent of damage or fair sales value is not acceptable to the applicant for the building permit to repair or reconstruct such building or structure, the extent of damage or fair sales value shall be determined by a Board of three arbitrators, one of whom shall be named by the Planning Board, one by the applicant for the building permit and one by the first two arbitrators named.
 - (2) In the event that the first two arbitrators cannot agree upon a third member within five days, the third arbitrator shall be named by the Town Board. A decision in which at least two of the arbitrators concur shall be deemed the official decision of the panel of arbitrators and shall be binding upon the Code Enforcement Officer.
- G. Any nonconforming building or structure which is damaged by fire, flood, wind or other act of God or man to the extent of 50% or more of its fair sales value immediately prior to damage shall not be repaired or reconstructed except in conformity with the provisions of this chapter. In the event of dispute, the extent of damage or fair sales value shall be determined in the same manner set forth in Subsection F above.
- H. Any building or structure containing a nonconforming use or any structure constituting a nonconforming use which is damaged by fire, flood, wind or other act of God or man to an extent of more than 25% but less than 50% of its fair value immediately prior to damage shall not be repaired or reconstructed except in conformity with this chapter, unless such reconstruction is completed within 12 months of the damage. In the event of a dispute, the extent of damage or the fair sales value will be determined in the manner as set forth in Subsection F.

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- I. No building or structure designed for or intended to be utilized for a nonconforming use shall be constructed, reconstructed or altered unless construction, reconstruction or alteration is already underway at the time of the enactment or subsequent amendment of this chapter and is being diligently prosecuted so that such building or structure will be completed within 18 months from the time of the enactment or subsequent amendment of this chapter. Not more than 30 days after the enactment of this chapter a permit shall be obtained from the Code Enforcement Officer for each building or structure under construction as of the date of enactment of this chapter. Irrespective of whether such construction conforms with the term of this chapter, any structure so permitted shall be allowed to be completed in accordance with plans filed at the time of the application for the permit. After filing of plans with the Code Enforcement Officer, alteration or additions to such plans, except as may be in conformity with the term so this chapter, shall not be permitted. Construction of buildings or structures under construction at the time of the enactment of this chapter for which permits are not obtained as provided above shall be stopped 360 days after the enactment of this chapter and thereafter to be permitted to continue only in accordance with the terms of this chapter after the securing of a zoning permit as hereinafter provided.
- J. The above limitations shall not apply to a building or other structure utilized as a dwelling which is nonconforming only in respect to yard space area per dwelling and nonconforming to the district in which located, except no building shall be altered, added to or reconstructed to extend farther into an already deficient yard space or to reduce an already deficient amount of land area per dwelling.

§250-76. Special Building Setback Lines

On the streets and roads listed below, no building or part of a building other than steps, eaves, and similar fixtures shall extend nearer to the center line of the street or road than the distance specified. And where a front setback is required under this chapter, the depth of the required front yard shall be measured from the center line specified below instead of from the side line (property line) of the street or road. However, in no instance shall the above require placing a main building more than 10 feet back of the front main wall of an adjacent building already existing within 50 feet of and on the same side of the street with the building or part of the building to be erected.

§250-77. Off-Street Parking and Automobile Storage Spaces

A. General Provisions

- (1) Permanent off-street automobile storage, parking or standing space shall be provided as set forth below at the time of the erection of any

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building or structure at the time any building or structure is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area or before conversion from one zoning use or occupancy to another. Such space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. No required front yard or portion thereof in any residential district shall be utilized to provide parking space required in this chapter.

- (2) If the vehicle storage space or standing space required by this chapter cannot be reasonably provided on the same lot on which the principal use is conducted, the Board of Appeals may permit such space to be provided on other off-street property, provided that such space lies within 400 feet of the main entrance to such principal use. Such vehicle parking space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.
- (3) Vehicle parking or storage space maintained in connection with an existing and continuing principal building, structure or land use on the effective date of this chapter shall be continued and may not be counted as serving as new building, structure, addition or land use; nor shall any required parking space be substituted for an off-street loading and unloading space, nor any required loading and unloading space be substituted for parking space.
- (4) The required parking space for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use at the same time, except that $\frac{1}{2}$ of the parking space required for churches, theaters or assembly halls whose peak attendance will be at night or on Sunday may be assigned to a use which will be closed at night or on Sunday.
- (5) No off-street automobile parking or storage space shall be used or designed, arranged or constructed to be used in a manner that will obstruct or interfere with the free use of any street, alley or adjoining property.
- (6) The parking spaces provided along with their necessary driveways and passageways shall be treated in a manner adequate to eliminate dust and mud problems. Plans for such parking spaces are to be included

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with the plans for the construction of buildings and other structures and are to be presented to the Code Enforcement Officer at the time application for building permits are to be filed. Such parking areas are to be kept free of obstructions and unsightly objects. Intersections of parking area with sidewalks or street pavements must be made in an approved manner. Provision must be made for the adequate drainage of parking areas.

- (7) No motor vehicle shall be parked or stored overnight on the street in any residential district.

B. Parking and automobile storage spaces are required as follows:

- (1) Amusement facilities. One parking space for every three customers computed on the basis of maximum servicing capacity at any one time plus additional space for every two persons regularly employed on the premises.
- (2) Apartment houses; multifamily dwellings. One and one-fourth parking spaces for each apartment.
- (3) Auditorium. One parking space for every three seats occupied at maximum capacity.
- (4) Boardinghouse. One parking space for each sleeping room occupied by roomers or boarders plus one parking space for each dwelling unit on the premises plus one additional space for every two persons regularly employed on the premises.
- (5) Bowling alleys. As in Subsection B(1).
- (6) Churches. As in Subsection B(3).
- (7) Civic centers. Parking or storage space for all vehicles used directly in the operation of such establishment plus four parking spaces for the first 1,000 square feet of total floor area and one additional space for every additional 150 square feet of floor area.
- (8) Clubhouses and permanent meeting places of veterans, business, civic, fraternal, labor and other similar organizations. One parking space for every 50 square feet of aggregate floor area in the auditorium, assembly hall and dining room of such building plus one additional space for every two persons regularly employed on the premises.
- (9) Colleges (educational institutions). One parking space for every five seats occupied at maximum capacity in the assembly hall, auditorium, stadium or gymnasium of

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greatest capacity on the campus. If the institution has no assembly hall or auditorium, one parking space shall be provided for each person regularly employed at such institution plus five additional spaces for each classroom.

- (10) Dental clinics. Three parking spaces for each doctor or dentist plus one additional space for every two regular employees.
- (11) Dormitories. One parking space for every two beds computed on the basis of the maximum bed capacity of the structure. This requirement is in addition to the parking space requirements as set forth in Subsection B(9).
- (12) Eating establishments. One parking space for every 100 square feet of total floor area.
- (13) Electrical shops. Parking or storage space for all vehicles used directly in the conduct of the business plus one parking space for each two persons regularly employed on the premises.
- (14) Fraternity houses. As in Subsection B(11).
- (15) Freight terminals. Parking or storage space for all vehicles used directly in the business plus one parking space for each two persons regularly employed on the premises.
- (16) Funeral homes. Parking or storage space for all vehicles used directly in the conduct of the business plus one parking space for every two persons regularly employed on the premises and one space for every six seats in the auditorium or chapel of such establishment. If the establishment does not have a chapel or auditorium, the additional parking to be required for funeral visitors shall be determined by the Planning Board based on the number of funerals that can be handled at one time, the size of the facilities and other relevant factors.
(Amended 10-9-1982)
- (17) Hospitals. One parking space for every two beds intended for patients, excluding bassinets.
- (18) Hotels. One parking space for each sleeping room offered for tourist accommodations plus one for each dwelling unit on the premises and plus one additional space for every two persons regularly employed on the premises.

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- (19) Indoor retail business. Parking or storage space for all vehicles used directly in the conduct of such business plus four parking spaces for the first 1,000 square feet of total floor area, and one additional space for every additional 150 square feet of floor area.
- (20) Industrial plants and facilities. Parking or storage space for all vehicles used directly in the conduct of such industrial use plus one parking space for every employee on the premises at the maximum employment on a single shift.
- (21) Junior high schools (secondary). One parking space for every five seats occupied at maximum capacity on the school grounds or campus. If the school has no assembly hall, auditorium, stadium or gymnasium, one parking space shall be provided for each person regularly employed at such school plus two additional spaces for each classroom.
- (22) Libraries. As in Subsection B(7).
- (23) Medical clinics. As in Subsection B(10).
- (24) Mobile homes. One parking space for each mobile home.
- (25) Mobile home parks. As required by §250-70.
- (26) Motels. As in §205-68.
- (27) Museums. As in Subsection B(7).
- (28) Nursing home. One parking space for every two beds computed on the basis of the maximum bed capacity of the structure. This requirement is in addition to the parking space requirements for hospitals set forth in Subsection B(17).
- (29) Offices. One parking space for every 200 square feet of officespace.
- (30) Outdoor retail business. Parking or storage space for all vehicles used directly in the conduct of such business plus one parking space for every two persons employed on the premises in maximum seasonal employment and such additional space as may be required by the Planning Board based on the nature of the business and other related relevant factors. **(Amended 10-9-1982)**
- (31) Plumbing shops. As in Subsection B(13).

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- (32) Post offices. As in Subsection B(7).
- (33) Private schools. One parking space for each person regularly employed at such school plus one additional space for each classroom. Public assembly. As in Subsection B(3).
- (34) Public school (elementary). As in Subsection B(33).
- (35) Public garage, motor vehicle repair. Indoor or outdoor parking or storage space for all vehicles used directly in the conduct of such business plus three parking spaces for each person regularly employed on the premises.
- (36) Recreational centers and facilities. As in Subsection B(1).
- (37) Repair shops. As in Subsection B(13)
- (38) Residences (one-family, two-family and semidetached dwellings). One and one-half parking space for each dwelling unit; residence with home occupation, six parking spaces.
- (39) Restaurants. As in Subsection B(12).
- (40) Roofing shops. As in Subsection B(13).
- (41) Rooming houses. As in Subsection B(4).
- (42) Self-service laundries and dry-cleaning self-service plants. One parking space for every two washing machines and/or dry-cleaning machines.
- (43) Senior high school (secondary). As in Subsection B(21).
- (44) Service establishment. As in Subsection B(13).
- (45) Service station: motor vehicle. Parking or storage space for all vehicles used directly in the conduct of the business plus one parking space for each gas pump, three spaces for each grease rack and one space for every two persons employed on the premises at maximum employment on a single shift.
- (46) Skating rinks. As in Subsection B(1).
- (47) Sorority houses. As in Subsection B(11).
- (48) Stadium. As in Subsection B(3).

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- (49) Swimming pools. As in Subsection B(1).
- (50) Tavern. As in Subsection B(12).
- (51) Theaters. As in Subsection B(3).
- (52) Tourist courts. As in Subsection B(26).
- (53) Tourist homes. As in Subsection B(18).
- (54) Trailer parks (house). As in Subsection B(25).
- (55) Transportation terminals. One parking space for every 100 square feet of waiting room space plus one additional space for every two (2) persons regularly employed on the premises.
- (56) Trucking terminals. As in Subsection B(15).
- (57) Undertaking establishments. As in Subsection B(16).
- (58) Universities. As in Subsection B(9).
- (59) Warehouse. As in Subsection B(15).
- (60) Wholesale business. Parking or storage space for all vehicles used directly in the conduct of such business plus one parking space for each two persons employed on the premises based on maximum seasonal employment.

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§250-78. Off-Street Loading Space for Commercial Vehicles

On the same premises, with every building or structure or part thereof hereafter erected and occupied for the purpose of business, trade or industry, there shall be provided and maintained adequate space for the parking of commercial vehicles while loading and unloading off the street or public alley. Such space shall have access to a public alley or, if there is no alley, to a street. Off-street loading and unloading space shall be in addition to and not considered as meeting a part of the requirements for off-street parking space. Off-street loading and unloading space shall not be used or designed, intended or constructed to be used in a manner to obstruct or interfere with the free use of any street, alley or adjoining property. Off-street loading and unloading space shall be provided as set forth below at the time of erection of any building or structure and/or at the time any building or structure is enlarged or increased in capacity:

- A. Freight terminals. One off-street loading and unloading space at least 12 feet by 55 feet by 14 feet high for every 5,000 square feet of total floor area.
- B. Hotels. Off-street loading and unloading space at least 12 feet by 35 feet by 14 feet high.
- C. Hospitals. As in Subsection B of this section.
- D. One off-street loading and unloading space at least 12 feet by 55 feet by 14 feet high for every 7,500 square feet or less of total floor area.
- E. Industrial plants. One off-street loading and unloading space at least 12 feet by 55 feet by 14 feet high for every 10,000 square feet of total floor area or as required by the Board of Appeals.
- F. Retail business. As in Subsection B of this section.
- G. Service establishments. As in Subsection B of this section.
- H. Trucking terminals. As in Subsection B of this section.
- I. Warehouses. As in Subsection D of this section.
- J. Wholesale storage facilities. As in Subsection D of this section.

§250-79. Frontage on Public street or road (Amended 1-19-1978; 12-3-1998)

- A. Flag lots.

(1) It is recognized that property owners and land planners should have full opportunity for subdivision of land and at the same time avoid certain

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subdivision restrictions such as frontage schedules that mitigate against the legitimate use of rear acreage.

- (a) A flag lot as defined in Article III, Terminology, shall have a minimum lot area equal to that of the zone within which it is located, not including the flag access strip.
 - (b) The maximum number of lots that may be served by one flag access road shall be one.
 - (c) Flag lots shall not be permitted within a new proposed subdivision, whether such subdivision is a major or minor subdivision. It is the intent of this regulation to primarily restrict flag lots to acknowledging changes in land use and permitting utilization of some parcels of land that have been restricted by the adoption of any amendment to this chapter.
- (2) Each use district now or hereafter created with the Town of Lima prescribes a minimum frontage requirement, as defined in a specified number of feet, which must be demonstrated in order to qualify a single lot or parcel for an improved use. As an example, and not as a limitation, in the year 1998 in a General Business Use District B, a lot must be shown to have a minimum width of 150 feet at the front lot line. This is understood and established to mean that the minimum frontage requirement, as it may change from time to time, in any use district shall be established at the point said lot or parcel touches upon a public highway or road to be dedicated to the Town of Lima, provided that, in the reasonable opinion of the Town Planning Board and the Town Attorney, such road to be dedicated to the Town is likely to be completed and accepted by the Town within a reasonable period of time following the date that such lot configuration and location is proposed to the Planning Board. As long as the lot of record, as defined in this chapter, or the new lot authorized by the Planning Board is sufficient in width to permit the development of road acceptable to the Town, such lot shall be permitted to be developed by a road, and the land that is consequently opened and adjacent to the new road may be developed in accordance with Town standards.
- (3) Notwithstanding any contrary indication that may be implied in the Code, the frontage determination shall be established at the point of intersection with the exiting public highway or right-of-way, or the public highway or right-of-way to be dedicated to the Town, and not from any other point or place of beginning or measurement.

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- (4) It is the policy of the Town of Lima that land shall be developed with adequate frontage on a public right-of-way or a qualified private lane permitted by the Planning Board in connection with site plan review or approval processes. In every case, it is the preference of the Town Planning Board to authorize building and improvement upon parcels or lots with the appropriate road frontage defined in this chapter.
- (5) Flag lots, as defined herein in Article III of this chapter, shall be prohibited, and shall not be encouraged or created by the Planning Board or any subdivider or developer of property. The Town of Lima shall not permit the creation of any flag lot as a part of any regular or normal planning process or procedure. Any party choosing to request the creation or establishment of a flag lot, as defined in this Code, must apply to the Zoning Board of Appeals for a variance. The Zoning Board of Appeals is advised that Town of Lima policy discourages and forbids the creation of a flag lot absent extraordinary circumstances and need, as may be established by reference to the then-current requirements for properly granting an area variance.
- (6) In the event that a variance is granted allowing more than one flag lot (such that two or more flag lots are simultaneously created with adjoining lot lines), or if the Zoning Board authorizes a flag access road/drive serving more than one flag lot, the following requirements shall be applied: The owner shall cause to be recorded in the Livingston County Clerk's office a declaration of covenants, restrictions and easements in a form acceptable to the Town/Planning Board Attorney, which shall at a minimum provide:
- (a) Reciprocal easements for use of said road by each owner or a lot served by said road.
 - (b) A declaration that the Town has no responsibility for the maintenance of said road.
 - (c) That maintenance of the road is to be paid for by the owners of the lots served. Maintenance shall include normal surface repair, reconstruction, drainage, snow and ice control and any and all other costs which may be associated with said road.
 - (d) A provision that if the road is offered to the Town for dedication in the future, the road will first be brought up to Town specifications, including width for a dedicated road, at the expense of the owners of the lots served by said road.

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- (e) That no certificate of occupancy be issued until the road is constructed in accordance with the above specifications to the satisfaction of the Town Superintendent of Highways.
 - (7) In the event that any flag lot can be shown to have been in existence on June 1, 1998, which said proof shall consist of production of a duly recorded deed and/or valid signed and sealed instrument survey map depicting the flag lot status of the lot as of that date, the owner of said lot, or any successor, assign or heir thereof, may apply to the Code Enforcement Officer for permission to use the premises for one principal use only that would otherwise be authorized by this chapter, as it may be changed from time to time. For example, if the applicant chooses to use the flag lot for residential purposes, and such use would be permitted but for the deficiency of lot width at the point said lot intersects a public road, the Code Enforcement Officer will be allowed to permit such use. However, only one such use shall be permitted, meaning only one residence and appurtenant improvement shall be permitted thereon, and no additional or conflicting use shall be permitted.
 - (8) The Code Enforcement Officer must direct the applicant to the Planning Board for site plan review and approval if such review or approval would have been otherwise required had not the lot width been deficient, or if in the reasonable determination of such code Enforcement Officer the permission to improve the property would likely result in the creation of a potentially dangerous situation or land use.
- B. Provision against two primary uses on one lot or parcel.
- (1) No dwelling or residence may be built or moved or erected on a lot already containing a dwelling or residence that is intended to remain in such usage. No dwelling or residence may be built or moved or erected on a lot already improved by a substantial structure to remain occupied and in use, other than an agricultural building or structure if the residence is to be used by the agricultural operator or employee. The Town of Lima does not permit property to be used for more than one principal or primary use unless said property is located within a use district specifically permitting such usage. This prohibition shall not apply in any instance where separate but contiguous lots are in one common ownership, provided that each lot could be separately improved if it were in separate ownership.
 - (2) No building or structure situated on one lot or parcel, whether such structure is attached to any other structure or building or detached and separate therefrom,

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may be used for residential purposes if the primary use of the parcel or land is commercial or industrial in nature. It is the policy of the Town of Lima to discourage mixed usage of property if one use is residential and the primary or co-primary use is commercial or industrial. This prohibition shall not extend to parcels or lots already in existence at the time of adoption of this ordinance, where such usage is already validly and properly in existence. Notwithstanding the foregoing, any agricultural use shall be deemed to be harmonious with a residential use for purposes of this section.

§250-80. Reductions in Lot Area Prohibited

- A. No lot, although it may consist of one or more adjacent lots of record, shall be reduced in area to the extent that yards, lot area per family, lot width, building area or other requirements of this chapter are not maintained. This subsection shall not apply when a portion of a lot is required for a public purpose.
- B. No space applied or necessary under this chapter to satisfy the setback or other open space requirements in relation to any building or area, whether now or subsequently built or occupied, shall be counted as part of a required open space in relation to any other building.
- C. Notwithstanding the foregoing, the calculation of lot area for purposes of this Section shall be governed by the definition of area, land; lot depth; lot of record; and setback, front, as such shall be defined or amended from time to time. **(Added 8-4-1994)**

§250-81. Obstruction of Vision and Fencing

- A. In all districts, on a corner lot within the triangular area formed by the center lines of streets from the intersection, as shown on the schedule below, there shall be no obstruction to vision between the height of 3 ½ feet and the height of 10 feet above the average grade of each street on the center line thereof. The requirements of this section shall not be deemed to prohibit the construction of any necessary retaining wall.

Sight Distance for Various Street Widths:

Street Right-of-way (feet)	Distance from Intersection (feet)
50 or more	90
40 to 49	80
30 to 39	70

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- B. Except as provided in Subsection A above, the requirements of this chapter shall not be deemed to prohibit any otherwise lawful fence or wall, except that in any residential district no fence or wall shall exceed six feet in height.

§250-82. Drive-In Business

Plans for the erection or structural alteration of drive-in business establishments as herein defined shall be submitted to the Planning Board for approval. The Planning Board may require such changes therein in relation to setbacks, driveways, driveway entrances and exits and the location and height of buildings and enclosures as it may deem best suited to ensure safety, to minimize traffic hazards or difficulties and to safeguard adjacent properties.

§250-83. Storage of Flammable Liquids

The storage of alcohol, gasoline, crude oil, liquefied petroleum gas or any other highly flammable liquid in aboveground tanks in an amount greater than 550 gallons shall be prohibited in all districts unless such tanks up to and including 10,000 gallons capacity are placed not less than 100 feet from all property lines. Any such storage having capacity greater than 550 gallons shall be properly dyked with earthen dykes having a capacity not less than 1 ½ times the capacity of the tank or tanks surrounded.

§250-84. On-site wastewater disposal systems

- A. Where a public sanitary sewer main is not reasonably accessible, other proper provisions shall be made for the disposal of sanitary waste. Where on-site wastewater disposal systems are required, lot size shall be not less than 20,000 square feet.

- (1) All on-site wastewater disposal systems shall conform to the requirements of the Livingston County Health Department and the New York State Department of Health.

§250-85. Private Swimming Pools as an Accessory Use (Amended 4-21-1977)

A private swimming pool installed or maintained as an accessory use in an agricultural use or residential district shall meet the following requirements:

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- A. It shall be used only as an accessory use to a dwelling or to a special permit use in an agricultural use or residence district for the private use of the owner or occupant of such dwelling or building and his or her family, guests or employees.
- B. Such pool shall be maintained in a manner sufficient to meet the bacterial standards established by the provisions of the New York State Sanitary Code relating to public swimming pools.
- C. Such pool shall be equipped with an integral filtration system and filter pumps or other mechanical devices which shall be so located and constructed as not to interfere with the peace, comfort and repose of the occupancy of any adjoining property.
- D. No permission shall be granted for the installation of any swimming pool, until the owner has filed with the Code Enforcement Officer a statement by the installer that provisions for the drainage of such pool are adequate and will not interfere with the public water supply system or existing sanitary facilities.

§250-86. Fairs, Carnivals and Circuses

In an Agricultural Use District A or on the premises of a building occupied by a church, civic organization or similar non-profit group in any district, a permit may be issued under the terms of §250-86 for a fair, carnival or circus for a period not to exceed three days open to the public.

§250-87. Supplementary Regulations Relating to Dwellings

- A. Minimum floor area. No single-family dwelling shall henceforth be constructed, nor shall any existing single dwelling be reduced in area so as to contain less than 1,000 square feet of usable floor area as defined herein for living purposes and 300 square feet of floor area usable for storage. No dwelling unit in a two-family dwelling shall henceforth be constructed, nor shall an existing dwelling unit in such building be reduced in area so as to contain less than 800 square feet of usable floor area as defined herein usable for living purposes and 100 square feet of floor area usable for storage purposes.
- B. Cellar occupancy prohibited. It shall be unlawful to occupy all or any part of a cellar for sleeping purposes.

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- C. Basement occupancy. Any basement area used for sleeping purposes shall have not less than two means of egress, at least one of which shall be a door giving access to an open space.
- D. Slope of yards. No building containing dwelling units shall henceforth be constructed, nor shall any existing building be altered so as to contain dwelling units unless the surface grade of the front yard at the front wall of such building be more than one foot above the established grade of the sidewalk. Where a sidewalk has not been established the surface grade of the front at the front wall of the dwelling shall not be less than one foot above the center line of the street measured at the midpoint between the side lot lines of the lot. Where there is unusual difficulty in meeting this provision, the Code Enforcement Officer may accept a substitute gradient, provided that no minus gradient is established within 15 feet of the front wall or within six feet of either side wall of the dwelling.

§250-88. Home Occupations (Added 12-3-1998)

- A. Purpose. The purpose of the home occupation provisions of this chapter is to allow for home occupations that are not incompatible with the neighborhood in which they are located. The provisions contained herein shall supersede any provisions to the contrary found elsewhere in this chapter.
- B. Permit procedures. Home occupations complying with the criteria established in Subsection C shall be considered minor in character and permitted by right with no permit required. Major home occupations shall commence only after the receipt of a special use permit as outlined below.
- C. Criteria for minor home occupations. A use classified as minor shall be permitted in all zoning districts which allow single-family residences. The following regulations shall apply to all minor home occupations.
 - (1) The use shall be conducted entirely within a dwelling and carried on by the inhabitants thereof and no others. A minor home occupation shall be undertaken only by residents of the home and not by nonresidents.
 - (2) The use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes, and the appearance of the structure shall not be altered nor the occupation within the residence be conducted in a manner that would cause the premises to differ from its residential character either by the use of

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colors, materials, construction, lighting or signs or the emission of sounds or vibrations that carry beyond the premises.

- (3) No more than one room of the primary dwelling may be used for the home occupation, together with no more than 50% of any existing accessory structure or outbuilding.
- (4) There shall be no advertising, display or other indications of a home occupation on the premises, and there shall be no signs present on the property except for one wall sign, not to exceed four square feet, indicating the address and the occupant's name, for example: "Joe Doe – Accountant".
- (5) There shall not be conducted on the premises the business of direct selling of stocks of merchandise, supplies or products, provided that orders previously made by telephone or at a sales party may be filled at 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 above.
- (6) No storage or display of goods shall be visible from outside the structure(s).
- (7) No highly explosive or combustible material should be used or stored on the premises. No activity shall be allowed that would interfere with radio, television or telecommunications transmission in the area, nor shall there be offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line.
- (8) A home occupation shall not create greater vehicle or pedestrian traffic than normal for the district in which it is located.
- (9) Parties for the purpose of selling merchandise or taking orders shall not be held more than four times each month.
- (10) A home occupation shall have adequate and easily accessible parking spaces available to compensate for additional parking needs generated, such that no on-street parking by customers or suppliers or delivery vehicles will be generated.
- (11) No use of equipment not recognized as being part of the normal practice of owning and maintaining a residence shall be allowed, except that this

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section shall not prohibit the use of facsimile machines, multiline telephone banks or copier machines.

(12) Notwithstanding any provision contained herein to the contrary, garage, basement, yard or other similar sales shall not be allowed more than three times each year, and each sale shall not last more than 72 consecutive hours.

(13) Deliveries from commercial suppliers may not be made more than once each week, and the deliveries shall not restrict traffic circulation.

(14) Permitted minor home occupations include, but are not necessarily limited to, the following:

- (a) Artists and sculptors.
- (b) Authors and composers.
- (c) Home crafts for sale off site.
- (d) Office facility of a minister, rabbi or priest.
- (e) Office facility of a salesman, sales representative or manufacturer's representative, provided that no transactions are made in person on the premises.
- (f) Professional office facilities, such as home offices of accountants or attorneys.
- (g) Individual tutoring.
- (h) Preserving and home cooking for sale off site.
- (i) Individual instrument instruction provided that no instrument may be amplified.
- (j) Telephone solicitation work.
- (k) Family day-care home not involving more than three children or no more than the maximum number allowed a licensed caregiver by state regulations.
- (l) Licensed massage therapist.

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(15) The following uses, by nature of the investment or operation, have a pronounced tendency, once started, to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and value of a residential area for residence purposes. Therefore, the uses specified below shall not be permitted as minor home occupations:

- (a) All uses prohibited as major home occupations
- (b) Minor or major auto repair
- (c) Barbershop
- (d) Carpentry work
- (e) Dance instruction
- (f) Dental offices.
- (g) Medical offices
- (h) Painting of vehicles, trailers or boats
- (i) Photo developing or photo studios
- (j) Private schools with organized classes
- (k) Television repair
- (l) Upholstering
- (m) Beauty parlors
- (n) Massage parlors
- (o) Small engine repairs
- (p) Welding shops
- (q) Other similar uses

D. Criteria for major home occupations. Uses classified as major shall be considered special uses and administered according to the provision of the Code regulating special use permits. Major home occupations shall be least likely to be disallowed in neighborhoods or use zones or areas in transition from one land use to another. Pure single-family neighborhoods, whether zoned for residential use or agricultural use,

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should, in general, be protected from major home occupations, unless it can be specifically demonstrated that such a use will have no short-term or long-term negative impact on the neighborhood. To this extent, the following regulations shall apply to all major home occupations:

- (1) The use shall be conducted entirely within a dwelling and carried on by the inhabitants thereof and no others. It is intended that home occupations shall be permitted to and undertaken only by residents of the home and not by nonresidents.
- (2) The use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes, and the appearance of the structure shall not be altered nor the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, material, construction, lighting or signs or the emission of sounds, noises or vibrations.
- (3) The total area used for such purposes (including storage) shall not exceed the equivalent of $\frac{1}{2}$ of the floor area, in square feet, of the first floor of the user's dwelling unit, if any; otherwise, the main floor of the dwelling unit.
- (4) There shall be no signs present on the property except for one wall sign, not to exceed four square feet, indicating the address and the occupant's name, for example: "Joe Doe --- Accountant."
- (5) There shall not be conducted on the premises the business of selling stocks of merchandise, supplies or products, provided that incidental retail sales may be made in connection with other permitted home occupations; for example, a single-chair beauty parlor would be allowed to sell combs, hair spray and other miscellaneous items to customers. However, a dressmaker would be required to do only custom work for specific clients and would not be allowed to develop stocks of dresses for sale to the general public on site.
- (6) There shall be no exterior storage on the premises of material used in the home occupation nor of any highly explosive or combustible material. No activity shall be allowed which would interfere with radio, television or telecommunications transmission in the area; nor shall there be any offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line.
- (7) A home occupation, including studios or rooms for instruction, shall provide an additional off-street parking area adjacent to the main structure and

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reasonably adequate to accommodate needs created by the home occupation of not less than one parking space for each 300 square feet of floor area devoted to the home occupation.

- (8) Deliveries for commercial suppliers may not be made more than once each week, and deliveries shall not restrict traffic circulation.
- (9) Parties for the purpose of selling merchandise or taking orders shall not be held more often than four times each month.
- (10) Notwithstanding any provision contained herein to the contrary, garage, basement, yard or other similar sales shall be permitted not more than three times each year, and each sale shall not last more than 72 consecutive hours.
- (11) Permitted major home occupations shall include but are not necessarily limited to the following:
 - (a) Any use allowed as a minor home occupation
 - (b) Single-chair beauty parlors and barbershops
 - (c) Photo developing
 - (d) Organized classes with up to six students at one time.
 - (e) Television and other electrical repairs, excluding major appliances such as refrigerators, or storage.
 - (f) Small engine repairs, excluding major automobiles, motorcycles and snowmobiles.
 - (g) Upholstering
 - (h) Dressmaking
 - (i) Woodworking, excluding cabinetmaking
- (12) The following uses, by the nature of the investment or operation, have a pronounced tendency, once started, to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and value of zoning districts authorizing agricultural or residential uses and for residence purposes and are more suited to business districts. Therefore, the uses specified below shall not be permitted as home occupations:

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- (a) Minor or major auto repair, painting of vehicles, trailers or boats.
 - (b) Funeral chapels or homes
 - (c) Gift shops
 - (d) Medical or dental clinics
 - (e) Rental businesses
 - (f) Catering
 - (g) Photo studios
 - (h) Massage parlors
 - (i) Welding or machine shops
 - (j) Non-family-based day-care facilities caring for more than the maximum number of children or the maximum number of aged adults allowed a licensed home-based caregiver by state regulations, as amended from time to time, except as permitted in the instance of a family day-care home facility as allowed in Subsection C hereof. This distinction is based upon a family run and family-operated home-care facility caring for a small number of persons in contrast to a day-care business operation.
- E. Penalties for offenses. Any person, firm or cooperation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this chapter shall, upon conviction, be fined not more than \$100.00 for each offense. Each day that a violation shall exist shall constitute a separate offense.

§250-89. Hotels

Hotels, where allowable under this chapter, shall conform to the following requirements.

A. Area

- (1) The minimum land area per establishment shall be five acres. For each rental room in excess of 12, this land area shall be increased by not less than 2,500 square feet.

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(2) For purpose of calculation of the area of land required, reference made to the definitions contained in Article III of this chapter and specifically to the definitions of area, land; building line, front; lot corner; lot depth; lot of record; street line; and front setback, which said definitions are to be deemed to be incorporated in this section and subsection and as such definitions may be amended from time to time. **(Added 8-4-1994)**

- B. Frontage. The minimum frontage per establishment shall be 400 feet.
- C. Front setbacks. There shall be a minimum front yard of 150 feet in which there shall be no encroachment of automobile parking and of structures other than a fence, wall or sign not larger than 20 square feet and no other encroachment of commercial usage.
- D. Side and rear setbacks. No structure shall be placed closer to a side or rear property line than 50 feet and no automobile parking shall be placed closer to a side or rear property line than 25 feet. **(Amended 11-6-1997 by L.L. No. 3-1997).**

§250-90. Access to a Commercial or Industrial Uses

No driveway or other means of access for vehicles other than a public street shall be maintained or used in any residence district for the servicing of any use located in a General Business Use District B or an Industrial Use District M.

§250-91. Cage-Type Poultry Houses

The following shall apply in addition to all other regulations with respect to cage-type poultry houses as defined herein:

- A. Cage-type poultry houses shall be equipped with odor suppressors of the hydraulic pit or equivalent type of sufficient capacity as to permit the lapse of not less than four months between cleanings.
- B. Cage-type poultry house odor suppression devices shall not be cleaned during the months of June, July, August or September.
- C. Cage-type poultry houses shall be erected not less than 1,000 feet from the boundary line of an Agricultural Use District as it exists at the time application is made for a building permit and not less than 200 feet from any property line.

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§250-92. Exterior furnaces; outdoor solid-fuel heating devices; outdoor woodburning furnaces.

The Town Planning Board may approve a special use permit for exterior furnaces, outdoor solid-fuel heating devices and outdoor woodburning furnaces in the A Agricultural Districts, provided that the following standards and provisions are maintained:

- A. Any exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace in existence on the effective date of this section shall be permitted to remain, provided that the owner applies for and receives a permit from the Town Code Enforcement Officer within one year of such effective date; provided, however, that upon the effective date of this section all the provisions of this section are met. If the owner of an existing exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace does not receive a permit within one year of the effective date of this section, the exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace shall be removed. "Existing" or "in existence" means that the outdoor furnace is in place on a lot prior to the effective date of this section.
- B. The applicant shall supply a copy of the manufacturer's installation directions with the application for a special use permit. The exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace shall be installed per the manufacturer's installation directions.
- C. The exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace is to be in the rear yard.
- D. The exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace shall be located no closer than 10 feet to any building or the distance recommended by the manufacturer, whichever is greater.
- E. The exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace shall be located not less than 100 feet from any and all lot lines.
- F. The chimney of every exterior furnace, outdoor solid-fuel heating device and outdoor woodburning furnace shall be appropriate for the application and installed per the manufacturer's recommendations.
- G. No garbage, petroleum products, household waste or industrial waste products shall be used as fuel in or burned in an exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace. An outdoor furnace may not be used as a waste incinerator.
- H. The exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace may burn only the fuel for which the unit was designed, except for those items banned by these regulations.
- I. All ashes produced from any burning in an exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace shall be disposed of properly to avoid cosmetic or environmental problems.
- J. An application for an exterior furnace, outdoor solid-fuel heating device or outdoor

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woodburning furnace must be accompanied by a site plan and include the setback dimensions of the unit from all adjacent property lines.

- K. Nothing contained herein shall authorize or allow burning which is prohibited by codes, laws, rules or regulations promulgated by the United States Environmental Protection Agency, New York State Department of Environmental Conservation or any other federal, state, regional or local agency. Exterior furnaces, outdoor solid-fuel heating devices and outdoor woodburning furnaces, and any electrical, plumbing or other apparatus or device used in connection with an exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace, shall be installed, operated and maintained in conformity with the manufacturer's specifications and any and all local, state and federal codes, laws, rules and regulations. In case of a conflict between any provision of this section and any applicable federal, state or local ordinances, codes, laws, rules or regulations, the more restrictive or stringent provision shall prevail.

§250-93. Outside Storage and Display

A. Purpose: It is the purpose of regulating outdoor storage and display in business and industrial districts to promote aesthetic appeal and end visual pollution and clutter. While recognizing that outdoor storage and display may at times be necessary or desirable, it is the purpose of this section to discourage and eliminate such outdoor storage and display whenever such may be achieved without the creation of a genuine hardship. This section shall apply to outdoor storage of vehicles and equipment, building materials, industrial supplies, products for sale and other materials. Storage shall not be permitted as a principal use, but only as an accessory use to an approved principal use on the lot.

B. Business Districts.

1. In any Business or Planned Development District, no fixed or portable equipment, motor vehicles (excepting outdoor parking as provided for in §250-77), or other materials shall be permitted to be stored or displayed nor shall any stands for sale or display be permitted in such a district outside an enclosed building, , unless a Special Use Permit shall have first been granted by the Zoning Board of Appeals pursuant to the procedures specified in §250-65 and subject to the requirements of this Section.
2. Such Board may issue a Special Use Permit for the outdoor display or storage of such equipment or materials upon such conditions as it may deem reasonable provided:
 - a. Such storage and display is an accessory use to the main business conducted or to be conducted on the premises.
 - b. Such storage and display is not within one hundred (100) feet of the line of a residential zoning district or use.

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- c. Such storage and display is not at such distance from any public highway as to interfere with the safe use of such highway.
 - d. Such storage and display does not unreasonably interfere with the quiet enjoyment of property by adjacent property owners.
 - e. Storage of products other than goods for sale shall be effectively screened from view from public rights of way and neighboring properties. Such items shall not be visible above the screening. Screening shall be effective year-round and shall be installed and maintained in a sound condition.
 - f. All items stored and displayed outdoors shall be placed on a hard and durable surface.
3. Any Special Use Permit granted hereunder may be revoked by the Zoning Board of Appeals after due hearing on not less than ten (10) days written notice to the person holding such permit in the event that the holder of such permit violates any of the conditions of the issuance thereof or of this section.
 4. Unless the Zoning Board of Appeals shall set a shorter period of duration, each such Special Use Permit shall be valid for a period of three (3) years.
 5. Temporary outside storage, display and sales permits of a duration of one (1) week or less may be granted by the Code Enforcement Officer, up to and including three (3) times per year, provided the applicant demonstrates the ability to meet the conditions of Subsection B-1 of this Section. The fee for the issuance of a temporary permit shall be established from time to time by resolution of the Town Board. Permits granted pursuant to this subsection shall be issued by the Town Clerk upon payment of the required fee. Any temporary permit granted hereunder may be revoked immediately by the Code Enforcement Officer in the event the use made hereunder violates any of the conditions of its issuance or shall have become a nuisance.

C. Industrial Districts.

All requirements set forth in Section B of this article pertaining to outdoor storage and display in business districts shall apply to such outdoor storage and display in Industrial Use Districts, except:

1. No such storage or display shall occur within one hundred fifty (150) feet of the line of any residential district or use; and
2. Such permit shall become void one (1) year after approval unless the permitted activity has commenced.

§250-94. Outdoor Lighting

A. Purpose.

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The purpose of this section is to promote the public safety and welfare by regulating outdoor lighting to reduce the problems created by improperly designed and installed outdoor lighting. This section is intended to eliminate problems of glare and minimize light trespass to keep unnecessary direct light from shining onto abutting properties or streets, to help reduce the energy costs of outdoor lighting, and to reduce sky glow.

B. Definitions.

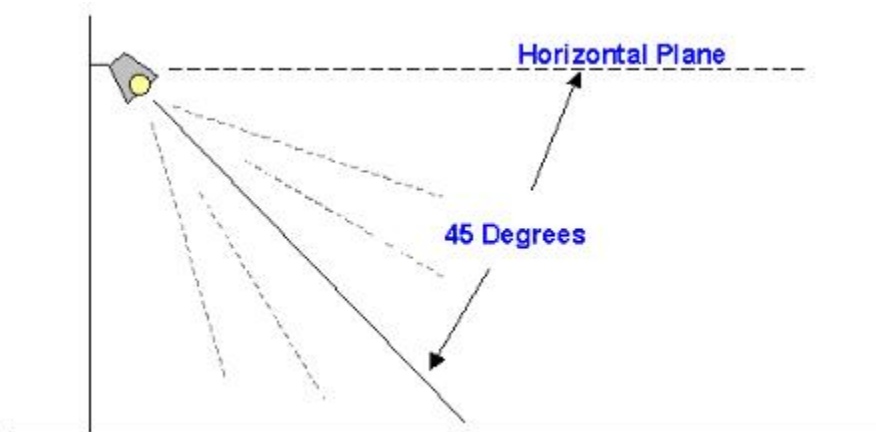
As used in this section, the following terms shall be defined as follows:

EXISTING NONCONFORMING LUMINAIRES: Luminaires not conforming to the provisions of this section that were in place on the effective date of this section.

FIXTURE: The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

FLOOD- OR SPOTLIGHT: Any light fixture or lamp that incorporates a reflector, a refractor, or a prismatic lens to concentrate the light output into a directed beam in a particular direction.

FULLY SHIELDED LUMINAIRE: A luminaire constructed and installed in such a manner that all light emitted by it, either directly from the lamp or a diffusing element, is projected below a horizontal plane through the luminaire's lowest light-emitting part.



LAMP: The component of a luminaire that produces the actual light (commonly called a "bulb").

LIGHT TRESPASS: The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

LUMEN: The unit used to measure the actual amount of light which is produced by a lamp. One footcandle is one lumen per square foot. For the purposes of this section, the lumen-output values shall be the initial lumen output ratings of a lamp. The lumen output of most lamps is listed on the packaging.

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LUMINAIRE: A complete lighting system, including a lamp or lamps and a fixture.

OUTDOOR LIGHTING: The nighttime illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

SKY GLOW: The overhead glow from light emitted sideways and upwards, including light reflected upward from the ground or other surfaces. Sky glow is caused by the reflection and scattering of various forms of light by dust, water, and other particles suspended in the atmosphere.

TEMPORARY OUTDOOR LIGHTING: The specific illumination of an outside area or object by any man-made device located outdoors that produces light by any means for a period of less than seven days, with at least 180 days passing before being used again.

C. Applicability of requirements.

All new and replacement public and private outdoor lighting installed in the Town of Lima after the effective date of this section shall be in conformance with the requirements of this section. Certain lighting in place on the effective date of this section shall also be subject to the requirements of this section, as specified in Paragraph L: Existing nonconforming luminaires. All lights shall be in compliance with Dark Sky and Illumination Engineers Society Standards and Recommendations to the extent practicable. Any inconsistent language in the Town of Lima Code is superseded by the requirements of this section.

D. Shielding requirements.

1. All nonexempt outdoor lighting fixtures shall be fully shielded, except glass tubes filled with neon, argon, or krypton do not require any shielding.
2. Notwithstanding the foregoing, any lamp of 1,000 lumens or less does not require any shielding.
3. Photometrics shall be provided to demonstrate that the light levels at the property line will be 0 foot candles. Light trespass shall be avoided to the extent practicable.

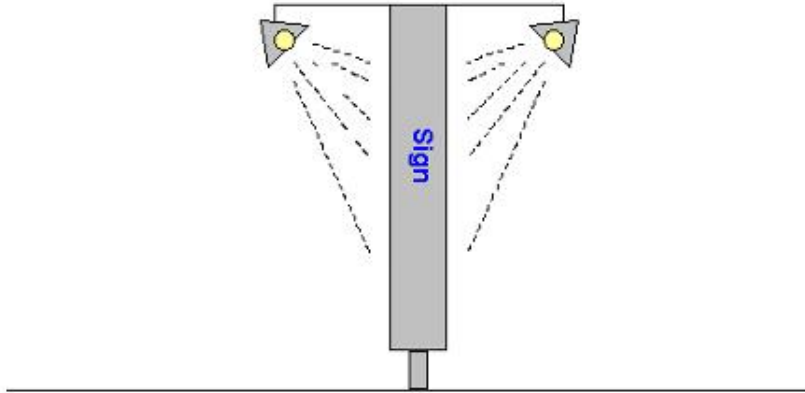
E. Exemptions.

1. All temporary emergency lighting needed by police or fire departments or other emergency services, as well as all automobile luminaires, shall be exempt from the requirements of this section.
2. All hazard-warning luminaires required by federal regulatory agencies are exempt from the requirements of this section, except that all luminaires used must be as close as possible to the federally required minimum lumen output requirement for the specific task.
3. Fossil fuel light. All outdoor light fixtures producing light directly by combustion of fossil fuels (such as kerosene lanterns and gas lamps) or equivalent are exempt from the requirements of this section.
4. Holiday decorations. Lights used for holiday decorations are exempt from the requirements of this section.
5. Farm uses are exempt.

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F. Outdoor signs.

1. Top-mounted fixtures required. Lighting fixtures used to illuminate an outdoor sign shall be mounted on the top of the sign structure. All such fixtures shall comply with the shielding requirements of Paragraph F: Exemptions to control of glare. Bottom-mounted outdoor sign lighting shall not be used. The Planning Board may grant an exception to this requirement during Site Plan Review, provided that the applicant demonstrates that the proposed lighting will not illuminate beyond the sign area.



2. In addition to the foregoing requirements, all outdoor signs must conform to the Sign Regulations of the Town of Lima Zoning Code.

G. Recreational facilities.

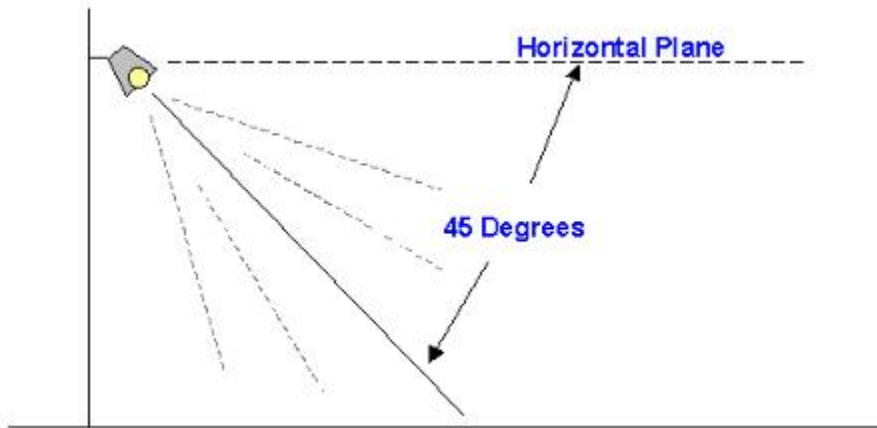
Any light source permitted by this section may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, or show areas, provided that all fixtures used for event lighting shall be fully shielded as defined in this section.

2. Lights shall not be mounted on the top or sides (fascias) of the canopy, and the sides of the canopy shall not be illuminated.

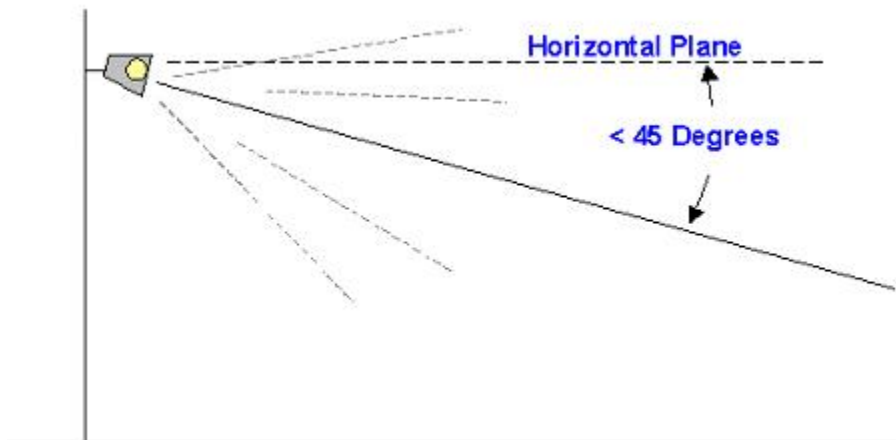
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H. Spotlights and floodlights.

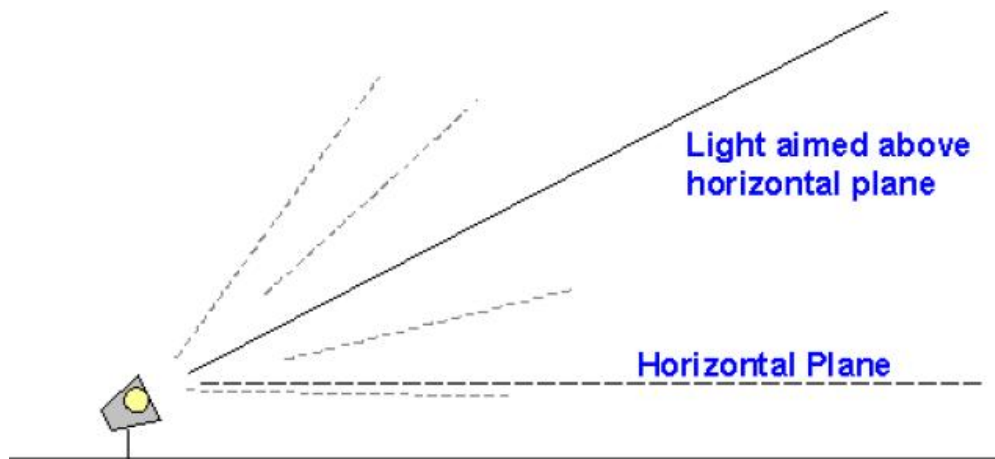
1. Spotlights and floodlights shall be aimed 45° or more below the horizontal.



ACCEPTABLE



UNACCEPTABLE



UNACCEPTABLE

2. Laser source light. The use of laser source light or any similar high-intensity light for outdoor advertising or entertainment, when projected above the horizontal, is prohibited. The temporary use of laser source lights that project light into the sky may be allowed subject to the restrictions of temporary outdoor lighting contained in K: Temporary outdoor lighting.
3. Searchlights and strobe lights. The operation of searchlights or strobe lights is prohibited.
4. Mercury vapor fixtures and lamps. The installation of any mercury vapor fixture or lamp for use as outdoor lighting is prohibited.

I. Temporary outdoor lighting.

Nonconforming temporary outdoor lighting may be permitted by the Code Enforcement Officer after considering: (1) the public and/or private benefits that will result from the temporary lighting; (2) any annoyance or safety problems that may result from the use of the temporary lighting; and (3) the duration of the temporary nonconforming lighting. The applicant shall submit a detailed description of the proposed temporary nonconforming lighting to the Code Enforcement Officer, who shall consider the request. The Code Enforcement Officer shall render the decision on the temporary lighting request within two weeks.

J. Existing nonconforming luminaires.

All luminaires lawfully in place on the effective date of this section that do not meet the requirements of this section are exempt from this section, except that any luminaire that replaces an existing nonconforming luminaire, or any existing nonconforming luminaire that is moved, must meet the requirements of this section.

K. New construction.

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1. Submission contents. The applicant for any permit or approval required by any provision of the Town of Lima Code in connection with proposed work involving outdoor lighting fixtures shall submit (as part of the application for permit or approval) evidence that the proposed work will comply with the requirements of this section. The submission shall contain but shall not necessarily be limited to the following:
 - a. Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, reflectors, and other devices;
 - b. Description of the illuminating devices, fixtures, lamps, supports, reflectors and other devices, and their lumen output. The description may include, but is not limited to, catalog cuts by manufacturers and drawings (including sections where required);
 - c. Photometric data, such as that furnished by manufacturers, or similar data showing the angle of cut off or light emissions, and the lumen output.
2. Additional submission. The above-required plans, descriptions and data shall be sufficiently complete to enable the plans examiner or board to readily determine whether compliance with the requirements of this section will be secured. If such plans, descriptions and data cannot enable this determination, by reason of the nature or configuration of the devices, fixtures, or lamps proposed, the applicant shall submit additional evidence of compliance to enable such determination, such as certified test reports by a recognized testing laboratory.
3. Subdivision plat certification. If any subdivision proposes to have installed street or other common or public area outdoor lighting, the final plat shall contain a statement certifying that the applicable provisions of this section will be adhered to.
4. Lamp or fixture substitution or addition. Should any outdoor light fixture, or the type of light source therein, be changed or added after the permit or approval has been issued, a change request must be submitted to the Code Enforcement Officer for approval, together with adequate information to assure compliance with this section. Approval must be received prior to substitution or addition.

L. Examples of preferred lighting fixtures

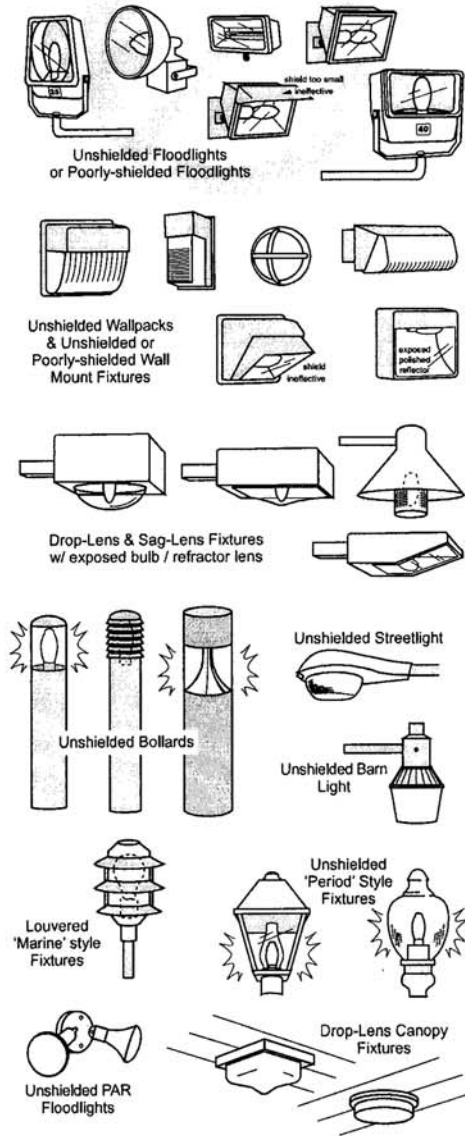
1. See the following illustrations.

Better Lights for Better Nights

Help eliminate light pollution. Select the best fixture for your application using this guide. Use the lowest wattage bulb appropriate for the task and turn off the light when it's not being used.

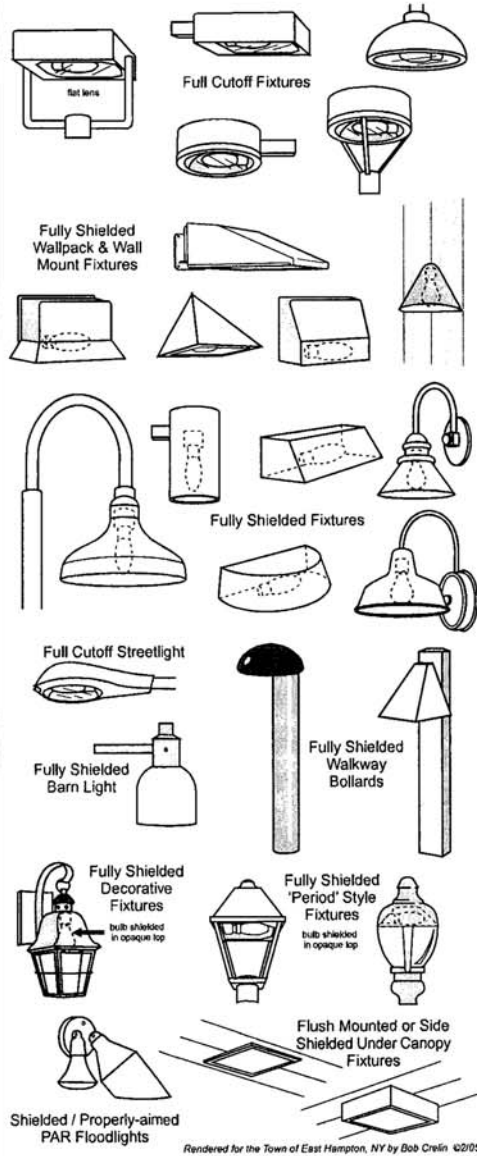
Unacceptable / Discouraged

Fixtures that produce glare and light trespass



Acceptable

Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night



Rendered for the Town of East Hampton, NY by Bob Crelin ©2005

presented by the

Dark Sky Society
www.darksksociety.org

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§250-95. Conservation Subdivisions

[This section intentionally omitted at this time.]

§250-96. Topsoil removal

No topsoil shall be stripped in connection with any construction, except from the smallest area necessary. All such topsoil shall be stockpiled and used to recover the disturbed area. No topsoil shall be removed from any land or premises, except as provided for in an approved mining permit issued by the NYS Department of Environmental Conservation.

ARTICLE XII: Administration and Enforcement

§250-97. Interpretation

In interpreting and applying the provisions of this chapter they shall be held to be the minimum requirements for the promotion of the public safety, convenience, prosperity and general welfare for the Town of Lima.

§250-98. Enforcement

- A. Code Enforcement Officer. The provisions of this chapter shall be administered and enforced by the Code Enforcement Officer appointed by the Town Board who shall have the power to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this chapter.
- B. Duties. It shall be the duty of the Code Enforcement Officer to keep a record of all applications for permits and a record of all permits issued with a notation of all special conditions involved. He shall file and safely keep copies of all plans submitted, and the same shall form a part of the records of his office and shall be available for use of the Town and other officials. The code Enforcement Officer shall not issue a permit for the construction of any building or use of any property unless such building or use conforms to all other ordinances of the Town of Lima.

§250-99. Building Permits; Certificates of Occupancy (Amended 8-41994; 3-1-2001)

A. Building permit

- (1) Requirement. It shall be unlawful to commence the excavation for or the construction of any building or structure, including accessory buildings, or to commence the moving or alteration of any building or structure, including

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accessory buildings until the Code Enforcement Officer has issued a permit for such work.

- (2) Issuance. In applying to the Code Enforcement Officer for a building permit, the applicant shall submit specifications and a dimensioned plan to scale, indicating the shape, size, height and location in exact relation to all property lines and to street and road lines of all building or structures to be erected, altered or moved and of any building or structure already on the lot. This plan shall be accompanied by a written statement from a qualified engineer or other satisfactory evidence to the effect that the line of the bounding street or road has been accurately located and staked on the ground. The applicant shall also state the existing or intended occupancy and use of all such buildings and land and supply other information as may be required by the Code Enforcement Officer to ensure that the provisions of this chapter are being observed. If the proposed excavations or construction or alterations or moving as set forth in the application is in conformity with the provisions of this chapter and other ordinances of the Town then in force, the Code Enforcement Officer shall issue a permit for such excavation, construction, alteration or moving.
- (3) Refusal. If a building permit is refused, the Code Enforcement Officer shall state such refusal, in writing, with the cause and shall immediately mail notice of such refusal to the applicant at the address indicated on the application.
- (4) Fees to be charged for the issuance of a permit as contemplated by this Section shall be calculated and determined as provided on a separate rate or fee schedule, as such schedule is adopted and amended by the Town Board from time to time. Said rate or fee schedule may differentiate based upon the nature of the proposed construction such that residential construction fees may be different from other fees attributable to nonresidential types of construction.
- (5) Effect. The issuance of permit shall in no case be construed as waiving any provision of this chapter.
- (6) Term.
 - (a) A building permit shall become void six months from the date of issuance unless substantial progress has been made since the date on the project described therein; provided, however, that the building permit may be renewed for an additional six months upon application therefore without the payment of an additional fee.

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(b) Upon written request submitted to the Code Enforcement Officer, a building permit may be extended for only one successive one-year period, provided that:

- [1] The permit has not been revoked or suspended at the time the application for renewal is submitted; and
- [2] A new application fee is paid in an amount equal to the original building permit fee paid by the original permit applicant; and
- [3] The Code Enforcement Officer inspects the property and can certify that substantial progress has been made toward completion of the project or work contemplated by the building permit since the date of the initial application and any subsequent renewal; and
- [4] The applicant shall supply all necessary or required materials requested of the applicant by the Code Enforcement Officer to justify proof of ongoing progress toward completion of the project or work contemplated by the building permit.

B. Certificate of occupancy

- (1) Requirement. No land or building or other structure or part thereof hereafter erected or altered in its use or structure shall be used or occupied until the Code Enforcement Officer shall have issued a certificate of occupancy stating that such land, building, structure or part thereof and the proposed occupancy or use thereof are found to be in conformity with the provisions of this chapter.
- (2) Issuance. Within five days after notification that a building or structure or premises or part thereof is ready for occupancy or use, it shall be the duty of the Code Enforcement Officer to make a final inspection thereof and issue a certificate of occupancy if the land, building, structure or part thereof is found to conform with the provisions of this chapter.
- (3) Refusal. If the Code Enforcement Officer after such final inspection refuses to issue a certificate of occupancy, he shall state such refusal, in writing, with the cause and immediately thereupon

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mail notice for such refusal to the applicant at the address indicated on the application.

- (4) The Code Enforcement Officer may issue a temporary certificate of occupancy if the building or structure or planned improvement requiring a certificate of occupancy is sufficiently complete that it may be put to the use for which it is intended, and complies or substantially complies with all New York State building Code requirements and local laws and regulations, but is nevertheless not in full compliance with all code requirements in some manner than cannot be reasonably completed within a reasonable period of time due to uncontrollable weather conditions. A temporary certificate of occupancy shall expire six months after the date of its issuance, or any earlier date so specified and endorsed on the temporary certificate of occupancy by the code Enforcement Officer. The code Enforcement Officer may place special conditions temporary certificates of occupancy as shall by said officer reasonably be deemed necessary to ensure safety and to protect the general welfare and interests of the property owner, and/or the Town of Lima and its residents.

§250-100. Board of Appeals

A. Creation, composition and appointment.

- (1) Creation. A Board of Appeals is hereby established in accordance with 267 of the Town Law.
- (2) Composition. The Board of Appeals may consist of five members.
(Amended 11-6-1997 by L.L. No. 3-1997)
- (3) Appointment. The Town Board shall appoint the members of the Board of Appeals and shall designate its Chairman. No person who is a member of the Town Board shall be eligible for membership on such Board of Appeals. Of the members of the Board first appointed, one shall hold office for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years and one for the term of five years from and after his appointment. Their successors, including such additional members as may be appointed by the Town Board, shall be appointed for the term of five years from and after the expiration for the term of their predecessors in office.
(Amended 11-6-1997 by L.L. No. 3-1997)

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- (4) Removal. The Town Board shall have the power to remove any member of the Board for cause.
- (5) Vacancies. Vacancies shall be filled by the Town Board. If vacancies shall occur otherwise than by the expiration of term, it shall be filled by appointment for the unexpired term.
- (6) Compensation. The Town Board may provide for compensation to be paid to Board members, experts, clerks, a secretary and for other such expenses as may be necessary and proper.

B. General procedures

- (1) Meetings. All meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine. All meetings of such Board shall be open to the public.
- (2) Oaths. The Chairman or, in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses.
- (3) Minutes. The 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 examination and other official actions. Every rule, regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Town Clerk and shall be a public record.

C. Powers. The Board of Appeals shall have the following powers:

- (1) Administrative review. To hear and decide appeals from and review any order, requirement, decision or determination made by the Code Enforcement Officer or other administrative officer in carrying out or enforcing any provision of this chapter. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant any matter upon which it is required to pass under any such ordinance.
- (2) Special exceptions. To hear and decide applications for special use permits as specified in §250-65 of this chapter and to authorize issuance of special

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permits as specifically provided therein. A majority vote of the members of the Board of Appeals shall be necessary to grant a special permit.

- (3) Variance. To hear applications for variance from the terms of this chapter as will not be contrary to public interest where, owing to unique conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Financial disadvantage to the property owner is no proof of hardship within the purpose of zoning. Hardship must be unique and must arise from either a natural or man-made condition of the land upon which a use not in conformance with the literal terms of this chapter is proposed. Specifically, no variance shall be granted by the Board of Appeals unless:
- (a) It refers any request for variance, relating to the use of buildings or structures or the use of land, to the Planning Board as may be provided by 271 of the Town Law for a report and does not take final action until receipt of such report from the Planning Board or until after the passage of 30 days of such referral in the event that the Planning Board makes no report on the matter and causes the entire report of the Planning Board, if received, to be read at the meeting of which the request for variance is considered by the Board of Appeals, includes such report in the minutes and, in any case where the Board of Appeals acts contrary to the recommendations of the Planning Board, includes in the minutes a resolution adopted by the Board of Appeals fully setting forth its reason for such contrary action; **(Amended 11-6-1997 by L.L. No. 3-1997)**
 - (b) It finds that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the land or building for which such variance is sought, that the granting of the variance is necessary for the reasonable use of such property and that the variance granted the Board is the minimum variance that will accomplish this purpose.
 - (c) If finds that there are special circumstances or conditions applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the vicinity or neighborhood and have not resulted from any act of the applicant subsequent to the adoption of this chapter; and

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(d) It finds that the granting of the variance will be in harmony with the general purpose of this chapter, will not be injurious to the neighborhood and will not alter the essential character of the locality. In granting a variance, the Board of Appeals may prescribe appropriate conditions or safeguards that are necessary or desirable to carry out the requirements of this subsection.

(e) The concurring vote of a majority of the members of the Board of Appeals shall be necessary to grant a variance.

(4) Reference to Livingston County Planning Board. In accordance with the policy and procedures provided for by Chapter 24, Article 12B, 239-1 and 239-m of the General Municipal Law, any special permit or variance affecting real property lying within a distance of 500 feet of the boundary of the Town of Lima or from the boundary of any existing or proposed county or state park or other recreational area or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway or from the existing or proposed right-of-way of any stream or drainage channel owned by the county for which the county has established channel lines or from the existing or proposed boundary of any county or state-owned land on which a public building or institution is situated shall be referred to the Livingston County Planning Board. The term “proposed” shall be deemed to include only those recreation areas, parkways, thruways, expressways, roads or highways which are shown on a county Plan of Livingston County adopted pursuant to Subdivision 2 of 239-d of the General Municipal Law. If the Livingston county Planning Board fails to report within 30 days after receipt of a full statement of such referred material, the Board of Appeals may act without such report. If the Livingston County Planning Board disapproves the proposal or recommends modifications thereof, the Board of Appeals shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all members thereof and after the adoption of a resolution setting forth the reason for the contrary action.

D. Special procedures relative to appeal for administrative review, variance or application for a special permit.

(1) Who may appeal. An appeal to the Board of Appeals for administrative review, variance or application for a special permit may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, board or bureau affected by any decision of the code Enforcement Officer based in whole or in part upon the provision of this chapter. Such

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appeal shall be taken by filing with the Board of Appeals a notice of appeal specifying the grounds thereof. The Code Enforcement Officer shall forthwith transmit all papers constituting the record upon which the action appealed from was taken to the Board of Appeals.

- (2) Time of appeal. Said notice of appeal shall be filed within 60 days from the date upon which the notice of refusal of building permit or refusal of certificate of occupancy is mailed by the Code Enforcement Officer, and failure to file notice of appeal within 60 days shall constitute a waiver of the right to appeal.
- (3) Stay of proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Code Enforcement Officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal shall be filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Code Enforcement Officer and on due cause shown.

E. Hearing, notice, public notice, notice to property owner and costs.

(1) Hearing. The Board of Appeal shall fix a reasonable time for the hearing of any application for variance, the hearing of an appeal for administrative review or the application for a special permit.

(2) Notice (**Amended 2-8-1996**)

(a) Public notice shall be published to all parties to advise of the time, date and place of the required variance hearing or for any other appeal for administrative review of special permitted use in the following manner:

[1] At least five days but no more than 20 days before the hearing, notice shall be published in the official paper of the Town to advise of the nature of the application, the name of the applicant and the time and place of the public hearing; and

[2] At least five days but no more than 20 days before the hearing, written notice equivalent to that published in the

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official paper shall be mailed by regular mail to all property owners located with 500 feet of the lot lines of the proposed site which is the subject of the hearing; and

- [3] At least 10 days before the date of hearing and at times thereafter up to and including the time of the public hearing, a sign shall be posted on the proposed site which is the subject of the hearing, identifying the site as the subject of such hearing. The sign shall be displayed and clearly visible from the street line and no further from the street line than 15 feet.
- (b) The sign shall be posted and installed by the Code Enforcement Officer, but said officer's duty shall not extend beyond the posting of said sign, and it shall be the exclusive responsibility of the applicant to make certain that the sign remains erect and visible.
- (c) Failure to properly notify all interested parties as noted herein shall result in postponement of the public hearing until all notice provisions are complied with.
- (3) Decision and costs. Upon the hearing, any party may appear in person or by agent or by attorney, and the Board of Appeals shall decide the application for variance or appeal for administrative review or the application for a special permit within 62 days after the final hearing as provided by Town Law, Subdivision 8 of 267-a. All costs of such publication and notice shall be paid by the applicant. **(Amended 11-6-1997 by L.L. No. 3-1997)**
- F. Provisions of appeal. If the variance is granted or the issuance of a permit is finally approved or other action by the appellant or applicant is authorized, the necessary permits shall be subject to the terms of §250-99A(6). Should the appellant or applicant fail to comply with the provisions, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn or abandoned his appeal or his application, and such permissions, variances and permits to him granted shall be deemed automatically rescinded by the Board of Appeals.
- G. Scope
- (1) In exercising the above-mentioned powers, such Board of Appeals may, in conformity with the provision of this article, reverse or affirm, wholly or partly or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decisions or

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determination as in its opinion ought to be made in the premises and to that end shall have the powers of the officer from whom the appeal is taken. Notice of such decision shall be given forthwith all parties in interest.

- (2) The Board of Appeals does not have the power to permit a use prohibited by this chapter.

H. Recourse. Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals, of any officer, department, board or bureau of the Town may apply to the supreme court for relief by a proceeding under Article 78 of the civil Practice Law and Rules, and:

- (1) It must be instituted within 30 days after the filing of a decision in the office of the Town Clerk.
- (2) The court may take evidence or appoint a referee to take such evidence as it may direct and report the same with his findings of fact and conclusions of law, if it shall appear that testimony is necessary for the proper disposition of the matter; and
- (3) The court at special term shall itself dispose of the cause on the merits, determining all questions which may be presented for determination

§250-101. Planning Board

A. Creation and Membership

1. There is hereby established a Planning Board having the powers authorized under the Consolidated Laws of the State of New York. Said Board shall consist of five (5) members, appointed by the Town Board. An appointment to a vacancy occurring prior to expiration of term shall be for the remainder of the unexpired term.
2. In making such appointments, the Town Board may require Planning Board members to complete training and continuing education courses in accordance with any local requirements for the training of such members. The Town Board may reimburse the members for appropriate expenses incurred in obtaining training.
3. The Town Board shall have the power to remove any member of the Planning Board for cause, including non-compliance with minimum requirements relating to meeting attendance and training as established by the Town Board by Local Law.

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4. The Town Board shall select a Chairman of the Planning Board, or on failure to do so, the Planning Board shall elect a chairman from its own members.

B. Powers and Duties of the Planning Board

The Planning Board shall have the following powers and duties:

1. To review and recommend revisions to the comprehensive plan for the development of the Town as provided under Section 272-a of Town Law and/or Town Board Resolution.
2. To review and comment on all proposed zoning amendments and special use permit applications and to make investigations, maps, reports and recommendations relating to the planning and development of the Town as it deems desirable. This shall include but not be limited to changes in boundaries of districts, recommended changes in the provisions of this local law, other land use and development matters of importance to the Planning Board, and to act on any matter lawfully referred to it by the Town Board.
3. To review Site Plans as authorized by New York State Town Law and prescribed in Article X of these regulations.
4. To review proposals to approve or disapprove the laying out, closing off, abandonment or changes in lines of streets, highways and public areas and to make recommendations to the Town Board.
5. To review, act on or provide advisory reports as specified by this local law.
6. To make referrals to other Town Departments, Boards and/or officials to request advisory opinions to assist the Planning Board in making decisions which affect the development of the Town.
7. All such powers and duties as are conferred upon Town Planning Boards and subject to the limitations set forth in Sections 272, 272-a, 274, 274-a, 275, 276, 277, 278, and 281 of the New York State Town Law, as the same may be amended, modified, or changed from time to time, or any sections subsequently adopted pertaining to Planning Boards.

C. Planning Board Office

The Office of the Code Enforcement Officer shall be the Office of the Planning Board. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in said office as required by the Town Law of the State of New York. The Planning Board shall keep minutes of its proceedings, showing the vote, indicating such fact, and shall keep records of its environmental reviews and determination, its examinations and other official actions.

D. Alternate Members

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1. Declaration of policy

It is sometimes difficult to maintain a quorum on the planning board because members are ill, on extended vacation or find they have a conflict of interest situation on a specific matter before the board. In such instances, official business cannot be conducted which may delay or impede adherence to required timelines. The use of alternate members in such instances is hereby authorized.

2. Definitions

“Planning Board” means the planning board of the Town of Lima as established by the Town Board, pursuant to the provisions of §271 of the Town Law.

“Member” means an individual appointed by the Town Board to serve on the Town Planning Board pursuant to the provisions of the local law or ordinance which first established such planning board.

“Alternate member” means an individual appointed by the Town Board to serve on the Town Planning Board when a regular member is unable to participate on an application or matter before the board, as provided herein.

3. Process and effect

- a. Alternate members shall serve when members are absent or unable to participate on an application or matter before the board
- b. Alternate members of the planning board shall be appointed by the Town Board for a term of three (3) years
- c. The chairperson of the planning board may designate an alternate to substitute for a member when such member is unable to participate on an application or matter before the board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the board. Such designation shall be entered into the minutes of the initial planning board meeting at which the substitution is made.
- d. All provisions of state law relating to planning board member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of a local law/ local ordinance relating to training, continuing education, compensation and attendance, shall also apply to alternate members.

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§250-102. Remedies

In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained; or any building, structure or land is used in violation of this chapter, the proper local authorities of the Town, in addition to other remedies, may institute any appropriate actions or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

§250-103. Penalties for Offenses (Amended 11-6-1997 by L.L. No. 3-1997)

A violation of this chapter is hereby declared to be an offense punishable by a fine not to exceed \$350 or imprisonment for a period not to exceed six months, or both, for a conviction of a first offense; for a conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction of a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. Each week's continued violation shall constitute a separate additional violation.

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§250-104. Amendments; Referral to the Livingston County Planning Board

The regulations, restrictions and boundaries established by this chapter may from time to time be amended, supplemented, changed or modified or repealed by ordinance in accordance with the procedures provided by 264 and 265 of the Town Law. However, all amendments to this chapter which would change the district classification or the regulations applying to real property lying within a distance of 500 feet from the boundary of the Town of Lima or the boundary of any existing or proposed county or state park or other recreational area or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway or from the existing or proposed right-of-way of any stream or drainage channel owned by the county for which the county has established channel lines or from the existing or proposed boundary of any county or state owned land on which a public building or institution is situated shall be referred to the Livingston County Planning Board as required by 239-m of the General Municipal Law. The term "proposed" shall be deemed to include only those recreational areas, parkways, thruways, expressways, roads or highways which are shown on a County Plan of Livingston County adopted pursuant to Subdivision 2 of 239-d of the General Municipal Law or adopted on an official map of Livingston county pursuant to 239-g of the General Municipal Law. If the Livingston county Planning Board fails to report within 30 days after receipt of a full statement of such referred matter, the Town Board of Lima may act without such report. If the Livingston County Planning Board disapproves of the proposed amendment, supplement, change or modification of the proposal of the Town of Lima, the Town Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary act.

ARTICLE XIII: Site Plan Review (Added 10-7-1982)

§250-105. Purpose

The site plan review process recognizes that some uses, generally suitable for location in a particular district, are nevertheless capable of adversely affecting the goals of this chapter. Characteristics such as their size, complexity or indicia or extraordinary impact upon the surrounding neighborhood therefore require that careful consideration is given to critical site design elements. It is the purpose of this section to provide a vehicle for review of the developer's attention to such elements.

§250-106. Authority

The Planning Board shall review site plans prepared to specifications set forth in this chapter regarding the arrangement, design and layout of the proposed use of land and to specifications set forth in regulations promulgated by the Planning Board. The Planning Board shall approve, approve with modification or disapprove said plans. For those uses wherein site plan review is

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required, said approval shall be a condition precedent to issuance of a building permit by the Code Enforcement Officer.

§250-107. Site Plan Review Required

Prior to issuing a building permit for the construction of a building on a lot in any district, except for one- or two-family dwellings and their accessory structures and agricultural structures in Agricultural Use Districts A or issuing a certificate of occupancy for change of use of an existing premises, the Town Clerk or Code Enforcement Officer shall refer the site plans for construction on such lot to the Planning Board for its review and approval. Except for one- or two-family dwellings and their accessory structures or agricultural structures in Agricultural Use District A, no building permit shall be issued except in accordance with the standards and procedures set forth in this section.

§250-108. Pre-Submission Conference

A pre-submission conference shall be held between the Planning Board and applicant to review the basic site design concept and generally determine the information to be required on the site plan application. At the pre-submission conference, the applicant should provide an area map showing the important natural and man-made features in and around the site and a statement or rough sketch describing what is proposed.

§250-109. Applications

Applications for site plan approval shall include the following information:

- A. The applicant's name and address and interest in subject property
- B. The owner's name, address and, if other than applicant, his signed consent to filing of the application.
- C. The street address or legal description of the property
- D. The zoning classification, present use of property and deed restrictions or covenants applying to the property
- E. Proposed use and summary description of the proposed development of said parcel.
- F. The names and addresses of adjacent property owners.
- G. Estimated project construction schedule for all improvements
- H. A site plan demonstrating that the proposed parcel is in compliance with applicable statutes, ordinance provisions and regulations and showing:

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- (1) Title of drawing, the name and address of applicant, North point, scale, date, boundary lines and dimensions of the subject parcel.
- (2) Easements, roadways, rail lines and public right-of-way that cross or are immediately adjacent to the subject parcel
- (3) Significant topographical and natural features of the property, including watercourses, trees in excess of six inches in diameter, protected wetlands, floodway and flood hazard elevations, existing contours at a five-foot maximum interval where the ground slope is in excess of four feet vertical in 100 feet horizontal
- (4) Existing and proposed stormwater drainage facilities.
- (5) Location, use and arrangement of proposed and/or retained structures for primary, accessory or secondary uses; included shall be height, floor area, total square feet of ground area and number and size of dwelling units, number of bedrooms, setback dimensions, percentage of lot coverage for building, floor area, parking area and landscaped area. Included also shall be floor area ratio, yard space and bulk specifications for the application district.
- (6) Location, dimension, number of acres, design and construction materials for vehicular and pedestrian circulation, including access and egress, drives, curb cuts, parking, off-street loading areas, walkways, fire lanes, retaining walls and location and type of proposed outdoor storage. Lot coverage ratio of vehicular circulation elements and snow storage and disposal methods if more than 10 parking and loading specs are required. Also footnotes showing slope of vehicular access elements. The site plan shall indicate or reference the following information related to access and egress:
 - a. distances to neighboring constructed access points, median openings, traffic signals, intersections and other transportation features.
 - b. Number and direction of lanes to be constructed on the driveway as well as striping plans
 - c. All planned transportation features, including auxiliary lanes, signals, signage, etc.
 - d. Trip generation data or appropriate traffic studies
 - e. Parking and internal circulation plans

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- (7) Location, size, arrangement of outdoor signs and lighting
- (8) Location, height of fences or natural plant screening devices together with footnotes as to proposed materials
- (9) Location and dimensions of open space areas
- (10) Location, use, size and height of structures and other uses of properties within 200 feet of the subject parcel, provided in the form of a site context map that depicts the location of the parcel in relation to its surrounding neighborhood.
- (11) In case of any use requiring a special permit, any information necessary to demonstrate compliance with all conditions imposed on the proposed special permit use.
- (12) Evidence of adequate water supply and sewage disposal facilities, including location, design and construction materials
- (13) A landscaping plan, drawn to scale, which shall include the following information:
 - a. List of planting materials. The materials list shall include type, size, quantity and location of each tree, shrub and ground cover
 - b. Street trees. Trees that are to be planted along the roadway shall be shown.
 - c. Parking lot shading. Trees used for parking lot shading shall be shown.
 - d. Landscaped areas and planters. Planting material should be drawn as close to mature size as possible
- (14) The Town Planning Board may require the applicant to conduct an analysis of traffic and safety where safety is an issue or where significant problems already exist.
- (15) The Planning Board may, in its discretion, limit the hours and days of the week that outdoor construction and site development work may occur.
- (16) The Planning Board may, in its discretion, require that outdoor lighting, excluding security fixtures, be turned off overnight.
- (17) Maintenance agreements shall be required for any pond or wetland installed for stormwater management to ensure ongoing functioning and satisfactory appearance.

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§250-110. Procedures (Amended 116-6-1997 by L.L. No. 3-1997)

The applicant shall submit a written request for Planning Board review. The Planning Board shall act upon said application within 62 days from receipt of the request. However, if the Planning Board deems a public hearing desirable, such hearing shall be held within this sixty-two-day period, with public notice at least five days prior to the hearing date. In such case, final action by the Planning Board shall be taken by no later than 62 days following the date of the hearing.

§250-111. Standards for Review

The Planning Board shall not disapprove site plans submitted pursuant to this section except on the basis of specific written findings. These findings may be supported by one of the following:

- A. The application is incomplete in specified particulars or contains or reveals violations of this chapter or other applicable regulations which the applicant has, after written request, failed or refused to supply or correct.
- B. In the case of a site plan submitted in conjunction with a planned development, a cluster development or a special permit use, the site plan fails to meet specified standards required by this chapter with respect to such development or use.
- C. The proposed site plan interfered unnecessarily, and in specified particulars, with easements, roadways, rail lines, utilities and public or private rights-of-way.
- D. The proposed site plan unnecessarily, and in specified particulars, destroys, damages, detrimentally modifies or interferes with the enjoyment of significant natural, topographic or physical features of the site.
- E. The proposed site plan unnecessarily, and in specified particulars, is injurious or detrimental to the use and enjoyment of surrounding property.
- F. The circulation elements of the proposed site plan unnecessarily, and in specified particulars, create hazards to safety on or off the site; disjointed pedestrian or vehicular circular paths on or off the site; undue dependence on automobile travel; or undue interferences and inconveniences to pedestrian travel
- G. The screening of the site does not provide adequate shielding from or for nearby uses which are incompatible with the proposed use.

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- H. The proposed structures or landscaping unnecessarily, and in specified particulars, are lacking amenity in relation to or are incompatible with nearby structures and uses.
- I. The proposed site plan unnecessarily, and in specified particulars, creates drainage or erosion problems.
- J. The site plan review shall address the following access management considerations:
 - a. The internal road system shall be designed to meet the projected traffic demand.
 - b. The road network shall follow the natural topography and preserve natural features of the site as much as possible. Street and driveway alignments shall be sited in such a way that grading requirements are minimized.
 - c. Access points shall be placed appropriately in relation to sight distance, driveway spacing, and other related considerations, including opportunities for joint and cross access. Entry roads shall be clearly visible from the major arterials.
 - d. Residential units shall front on secondary access streets rather than major roadways.
 - e. Vehicular circulation shall be accommodated within the site so that automobiles do not have to use the peripheral road network.
 - f. The road system shall provide adequate access to buildings for residents, visitors, deliveries, emergency vehicles, and garbage collection.
 - g. The edges of the roadways shall be landscaped. If sidewalks are provided alongside the road, they shall be set back sufficiently from the road and incorporate a landscaped planting strip between the road and the sidewalk.
 - h. The pedestrian sidewalk system shall link buildings with parking areas, entrances to the development, open space, and recreational and other community facilities.

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- i. For projects along State or County highways, the applicant shall secure the necessary access permits from the NYS Department of Transportation or the Livingston County Highway Department.
- j. For projects located along Routes 5 & 20 or Route 15A, the site plan shall conform, to the extent required by the Planning Board, to the Access Management requirements in **§250-117** and to the Land Use and Design Guidelines included in the 2008 Lima Comprehensive Plan.

§250-112. Non-Conforming Lots of Record; Special Authority

In the case of any site plan submitted pursuant to the requirements for this chapter, the Planning Board shall have authority, subject to the standards and limitations of this section, to approve such site plan notwithstanding any lot area, lot width, lot depth or setback deficiency resulting from the status of such lot as a nonconforming lot of record.

§250-113. Action of the Board

- A. Permissible Board action. The Board may take any of the following actions with respect to the application; said action shall be communicated in writing, to the applicant. Final site plan approval shall be void one year from the date of said approval unless substantial progress has been made on the site.
 - (1) Approval
 - (2) Approval with proposed modification
 - (3) Disapproval
- B. Effect of site plan approval. If the Planning Board shall approve the application or approve it subject to further specified approval or to modifications which are acceptable to the applicant, such approval shall not authorize the establishment or extension of any use, nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals which may be required by the codes and ordinances of the town, including, but not limited to, planned development or cluster development approval, approval for a variance, a permit for a special permit use, a building permit, a certificate of occupancy and subdivision approval.
- C. Approval with modification

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- (1) In the event that the Board approves with modification, the applicant shall annex a copy of said notice of approval, together with an amended site plan reflecting said modification, to any applications for subsequent municipal approvals
- (2) In the event that the applicant choose to decline approval with modification, he may submit, within five days of receipt of Board action, a written notice to the Board specifying which proposed modifications are unacceptable. Also included must be the basis for his request that the Board reconsider its ruling on the specified terms. The Board shall take action upon such notice and request within the time limitation fixed by §250-110 of this article.

D. Disapproval

- (1) In the event that the Board shall disapprove an application, it shall set forth its conclusion and specify which deficiencies served as the basis for such disapproval.
- (2) The Board, at its sole discretion, may grant the applicant leave to amend his application, and thereafter the Board shall treat the amended application in all respects, as superseding the original application in all respects.

§250-114. Simplified Site Plan Review

A. Purpose

- (1) This section is designed to meet the needs of the applicant who proposes site development that involves a modest capital investment and who may effectively inform the Board of critical design elements without preparing a site plan that is more complex than is necessary or appropriate for the project.
- (2) In the event that site plan review is required pursuant to §250-107 of this article and the estimated development costs, exclusive of land purchase costs, are not expected to exceed \$50,000, the Planning Board may grant the applicant the option to submit a simplified plan with his application

B. Procedure.

- (1) Applicant shall first obtain a professionally prepared instrument survey map setting forth boundary, setback dimension, easements and restrictions of record.
- (2) Applicant shall then superimpose upon said instrument survey map a sketch of the proposed improvements. Applicant shall also indicate, if applicable, the

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proposed removal of any existing structures and identify the actual dimensions of proposed improvements. Said sketch shall be accompanied by a report, signed and sworn to by the applicant, specifically describing how the proposed project complies with the relevant regulations with respect to each of the elements listed in §250-111 of this article; and an affidavit signed and sworn to by the applicant that the estimated development costs, exclusive of land, are not expected to exceed \$50,000.

- (3) Prior to finalizing the applicant's sketch and report, the applicant may seek a pre-submission conference with the Board and Town Engineer wherein the applicant may submit a draft and the Board may offer its comments on the sketch and report with respect to completeness, alternate site plan approaches or other matters deemed relevant by the parties.

§250-115. Fees and Reimbursable Costs (Amended 8-4-1994)

- A. An application for site plan review shall be accompanied by a fee as shall be specified in the separate rate and fee schedule, as shall be adopted and amended by the Town Board from time to time.
- B. Costs incurred by the Planning Board for consultation fees or other extraordinary expense in connection with the review of a proposed site plan shall be charged to the applicant, which said sums shall be reasonable sums necessary to defray expenses otherwise charged to the Town of Lima Planning Board to carry out its review functions. Insofar as may be reasonable and feasible, the Planning Board or Code Enforcement Officer shall monitor and project cost estimates upon the request of the applicant. Notwithstanding the foregoing, neither the Planning Board nor the Code Enforcement Officer can be held responsible for additional costs or expenses or charges greater than those projected by said party as long as such costs and charges can reasonably be demonstrated to be necessary in conjunction with the site review function.
- C. Costs that may be incurred by the Town to repair roadways damaged as a result of project construction shall be charged to the applicant.

§250-116. Letter of Credit or Other Security

When, in the judgment of the Town, certain facilities must be built or construction practices undertaken, the Town may, at its discretion, require a performance bond, letter of credit or other acceptable security as a condition precedent to site plan approval and subsequent granting of a building permit.

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§250-117. Access Management Requirements

The requirements of this section shall apply to development that is proposed along Routes 5 & 20 or Route 15A.

A. Access Spacing

Intent: Driveway spacing standards limit the number of driveways on a roadway by mandating a minimum separation distance between driveways. This reduces the potential for collisions as travelers enter or exit the roadway and encourages sharing of access, where appropriate.

1. Separation between access points along State highways and between driveways and intersecting side streets will be based on the posted speed limit as follows:

POSTED SPEED LIMIT DRIVEWAY SPACING

35 mph or less	125 feet
36-45 mph	245 feet
45 mph or greater	440 feet

Driveway spacing shall be measured from the closest edge of pavement to the next closest edge of pavement. The driveway spacing requirements may be reduced by the Planning Board during Site Plan Review in situations where they prove impractical.

2. If the driveway spacing guidelines cannot be achieved, then a system of joint use driveways and cross access easements may be required in accordance with subsequent sections.
3. Variations from these distances may be permitted at the discretion of the Planning Board where the effect would be to enhance the safety and/or operation of the roadway. A Traffic Study may be required by the applicant to demonstrate whether the proposed change would exceed roadway safety and/or operation benefits.

B. Corner Clearance

Intent: Driveway spacing at intersections and corners should provide adequate sight distance and response times and permit adequate stacking space at intersections. Corner clearance is the distance between a driveway and an intersection of a public or private road. (See Figure 1)

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1. Corner clearance shall meet or exceed the minimum access spacing requirements for that roadway.

Driveway spacing shall be measured from the closest edge of pavement for the driveway to the next closest edge of pavement for the intersection.

2. New road or driveway connections to Routes 5 & 20 or Route 15A shall not be permitted within the functional area of an intersection as defined by the driveway spacing standards of this section (see Figure 2), unless:

a) No other reasonable access to the property is available, and

b) The Planning Board and NYSDOT determine that the connection does not create a safety or operational problem upon review of a site-specific study of the proposed connection prepared by a registered engineer and submitted by the applicant.

3. Where no other alternatives exist, the Planning Board and NYSDOT may allow construction of an access connection along the property line farthest from the intersection. In such cases, directional connections (i.e. right in/out, right in only, or right out only) may be required.

4. In addition to the required minimum lot size, all corner lots shall be of adequate size to provide for required front yard setbacks and corner clearance on street frontage.

FIGURE 1
Corner Clearance and Connection Spacing

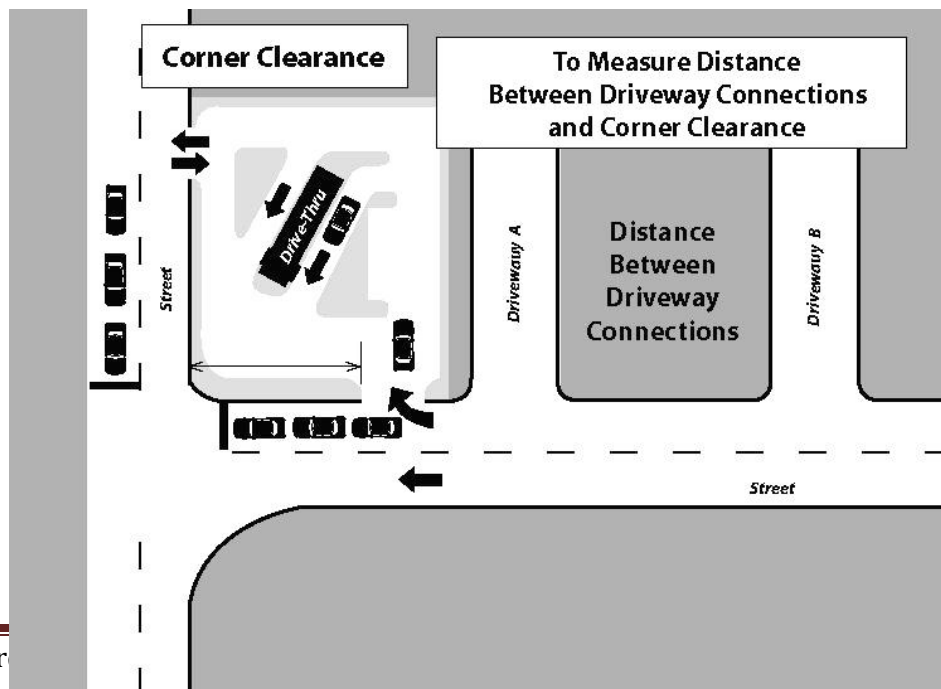
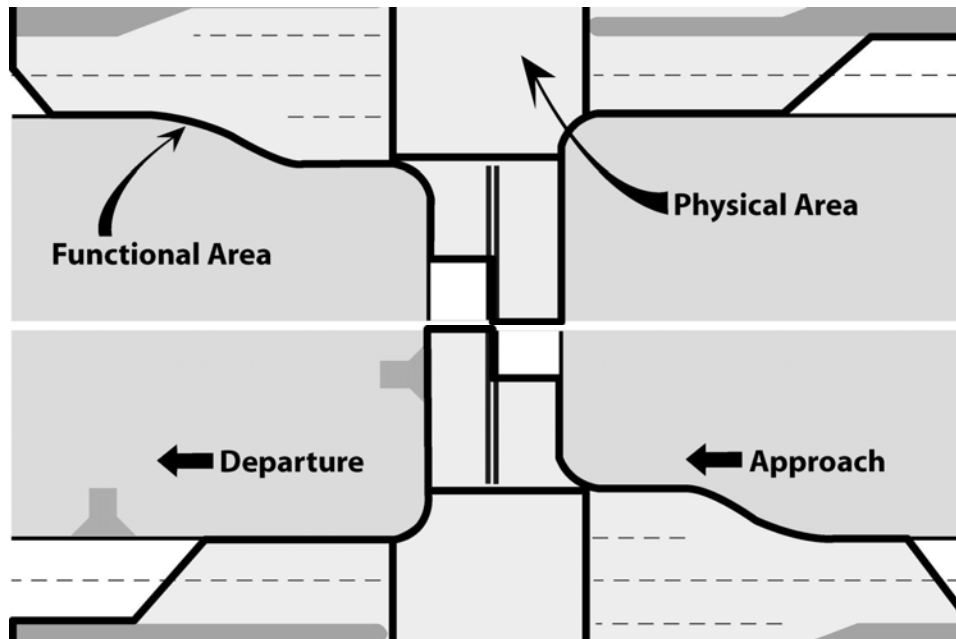


FIGURE 2
Functional and Physical Area of the Intersection



C. Joint and Cross Access

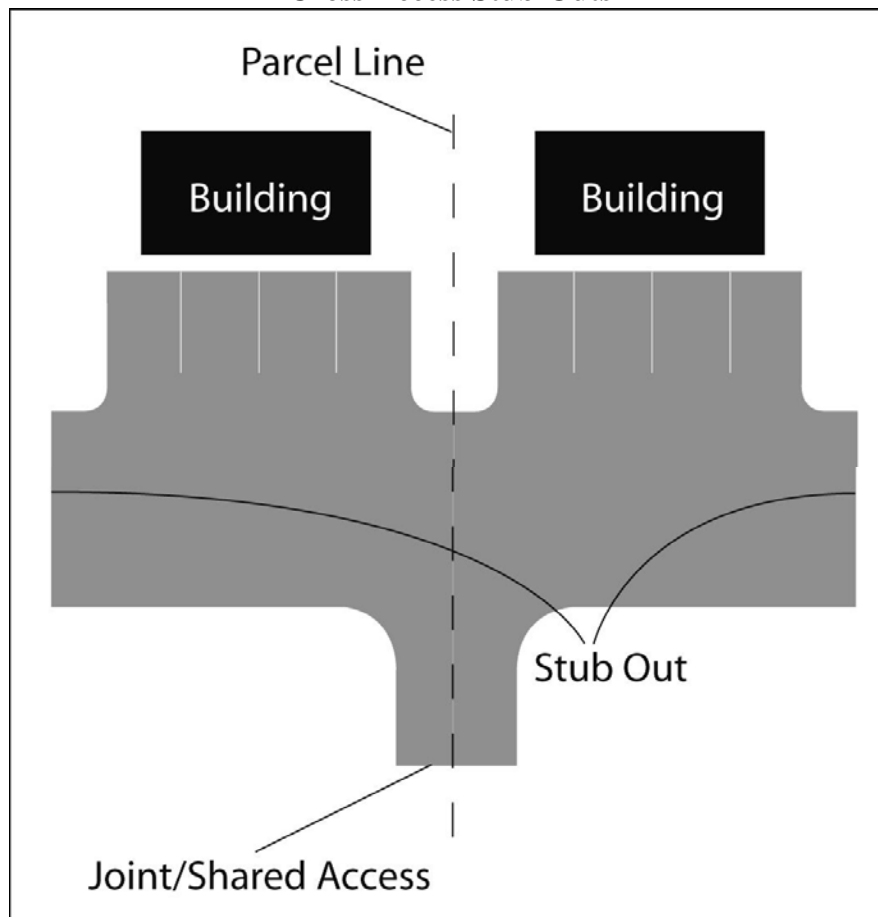
Intent: Adjacent shopping centers or office parks are often not connected by a service drive and sidewalk. As a result, customers who wish to shop in both centers, or visit both sites, must exit the parking lot of one, travel a short distance on a State highway, and then access the next site. A cross access drive and sidewalks would reduce traffic on State highways and increase safety. The result is a positive business benefit by providing easy access to one site from another.

1. Adjacent commercial or office properties classified as major traffic generators (i.e. shopping plazas, office parks), shall provide a cross access drive and pedestrian access to allow circulation between sites.
2. A system of joint use driveways and cross access easements shall be established wherever feasible along Routes 5 & 20 or Route 15A and the building site shall incorporate the following:
 - a) A continuous service drive or cross access corridor extending the entire length of each block served to provide for driveway separation consistent with the access spacing standards.

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- b) A design speed of 10 mph and sufficient width to accommodate two-way travel aisles designed to accommodate automobiles, service vehicles, and loading vehicles;
- c) Stub-outs and other design features to make it visually obvious that the abutting properties may be tied together to provide cross access via a service drive; (See Figure 3)
- d) A unified access and circulation system plan that includes coordinated or shared parking areas is encouraged wherever feasible;
- e) Sidewalks on one or both sides to increase pedestrian safety and access.

FIGURE 3.
Cross Access Stub-Outs



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3. Shared parking areas shall be permitted and should facilitate a reduction in the required number of parking spaces if peak demand periods for proposed land uses do not occur at the same time periods.

4. Pursuant to this section, property owners shall:

- a) Record an easement with the deed allowing cross access to and from other properties served by the joint use driveways and cross access or service drive;
- b) Record an agreement with the deed that remaining access rights along the thoroughfare will be dedicated to the Village or Town of Lima and pre-existing driveways will be closed and eliminated after construction of the joint-use driveway;
- c) Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners.

5. The Planning Board may reduce required separation distance of access points where they prove impractical, provided all of the following requirements are met:

- a) Joint access driveways and cross access easements are provided wherever feasible in accordance with this section.
- b) The site plan incorporates a unified access and circulation system in accordance with this section.
- c) The property owner shall enter a written agreement with the Town, recorded with the deed, that pre-existing connections on the site will be closed and eliminated after construction of each side of the joint use driveway.

6. The Planning Board may modify or waive the requirements of this section where the characteristics or layout of abutting properties would make development of a unified or shared access and circulation system impractical.

D. Access Connection and Driveway Design

The minimum standards for driveway design and location are as follows:

- 1. Driveway grades shall conform to the requirements of NYSDOT Standards for Entrances to State Highways, latest edition.

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2. Driveway approaches must be designed and located to provide an exiting vehicle with an unobstructed view. Construction of driveways along acceleration or deceleration lanes and tapers is discouraged due to the potential for vehicular weaving conflicts;
3. Driveway width and flair shall be adequate to serve the volume of traffic and provide for rapid movement of vehicles off of the major thoroughfare, but standards shall not be so excessive as to pose safety hazards for pedestrians, bicyclists, or other vehicles;
4. The length of driveways or “Throat Length” shall be designed in accordance with the anticipated storage length for entering and exiting vehicles to prevent vehicles from backing into the flow of traffic on the public street or causing unsafe conflicts with on-site circulation. General standards appear in the following table. The requirements will vary according to the projected volume of the individual driveway and are specific to the principle access to a property and are not intended for minor driveways. Variation from these shall be permitted for good cause upon approval of the Town and NYSDOT.

DEVELOPMENT DRIVEWAY THROAT LENGTH

Shopping Centers greater than 200,000 sq. ft. Gross Leaseable Area (GLA)	200 feet
Smaller Developments less than 200,000 GLA	75-95 feet
Unsignaled driveways	40-60 feet

E. Requirements for Outparcels and Phased Development Plans

Intent: This section is intended to encourage driveway consolidation for out parcels and phased development plans by way of a coordinated internal circulation system. Adjacent properties under single ownership will be treated as one property unless the applicant can show the Town and NYSDOT that the two properties should have separate access due to safety concerns. Marketing of the two properties is not a valid reason to have them treated as separate properties.

1. In the interest of promoting unified access and circulation systems, development sites under the same ownership or consolidated for the purposes of development and comprised of more than one building site shall not be considered separate properties in relation to the access standards of this code. The number of connections permitted shall be the minimum number necessary to provide reasonable access to these properties, not the maximum

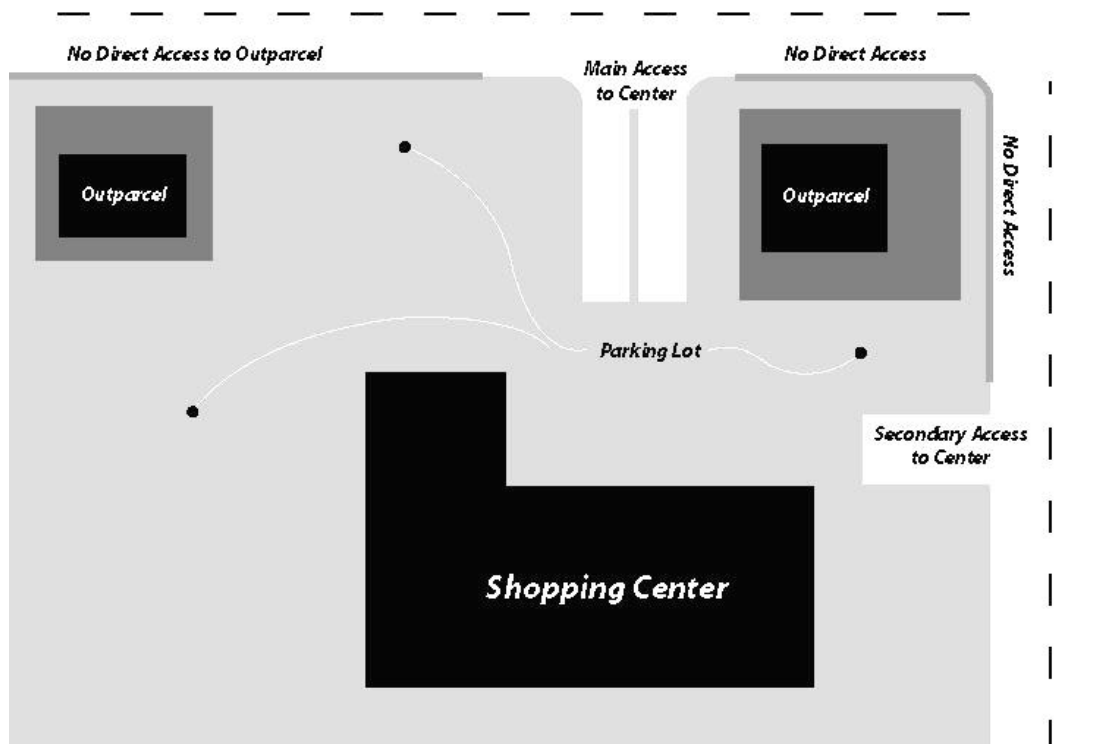
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available for that frontage. All necessary easements, agreements, and stipulations required under the Joint and Cross Access Section shall be met. This shall also apply to phased development plans. The owner and all lessees within the affected area are responsible for compliance with the requirements of this code and both shall be cited for any violation.

2. All access to the outparcel must be internalized using the shared circulation system of the principle development or retail center. Access to outparcels shall be designed to avoid excessive movement across parking aisles and queuing across surrounding parking and driving aisles. (See Figure 4.)

3. The number of outparcels shall not exceed one per ten acres of site area, with a minimum lineal frontage of 300 feet per outparcel or greater where access spacing standards for that roadway require. This frontage requirement may be waived where access is internalized using the shared circulation system of the principle development or retail center. In such cases the right of direct access to the roadway shall be dedicated to the Town and recorded with the deed.

FIGURE 4
Internalized Access to Outparcels



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F. Nonconforming Access Features

Intent: Nonconforming access features may continue in the same manner after adoption of land development regulations—a process known as “grandfathering.” This protects the substantial investment of property owners and recognizes the expense of bringing those properties into conformance. Opportunities to bring nonconforming features into compliance occur after specific events when the costs of required improvements may be amortized in the business loan or mortgage, thereby minimizing financial hardship.

1. Permitted access connections in place as of (date of adoption) that do not conform with the standards herein shall be designated as nonconforming features and shall be brought into compliance with applicable standards under one of the following conditions:

- a) When new access connection permits are requested;
- b) Substantial enlargements or improvements;
- c) Significant change in trip generation;
- d) Property ownership changes or;
- e) As roadway improvements allow.

2. If the principal activity on a property with nonconforming access features is discontinued for a consecutive period of (180 or 365) days, or discontinued for any period of time without a present intention of resuming that activity, then that property must thereafter be brought into conformity with all applicable connection spacing and design requirements, unless otherwise exempted by the Planning Board.

3. For uses that are vacant or discontinued upon the effective date of this code, the (180 or 365) day period begins on the effective date of this code.

G. Reverse Frontage

Intent: The following standards are intended to reduce safety hazards and congestion caused by direct access to State highways.

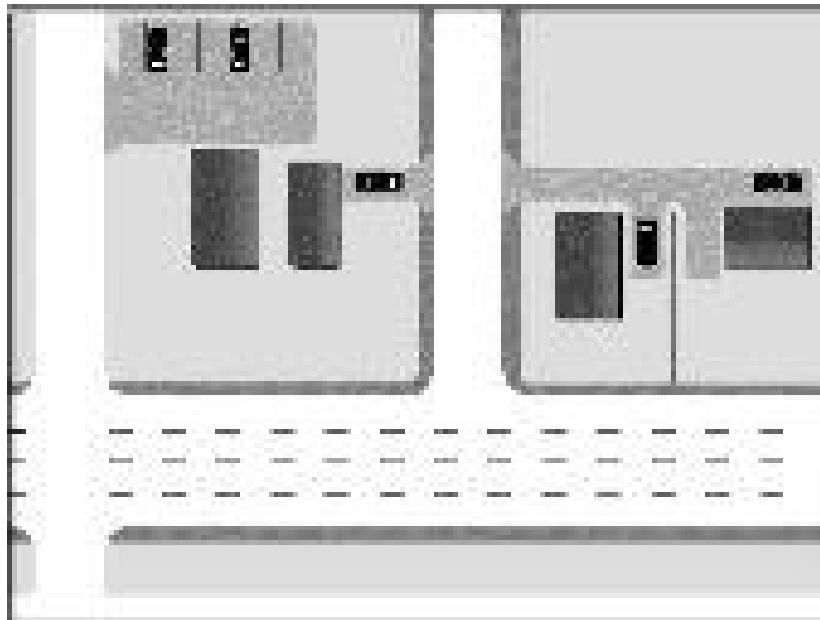
- 1. Access to double frontage lots shall be required on the street with the lower functional classification. (See Figure 5)
- 2. When a residential subdivision is proposed that would abut Routes 5 & 20 or Route 15A, it shall be designed to provide through lots that abut the State highway with access from a

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frontage road or interior local road. Access rights of these lots to Routes 5 & 20 or Route 15A shall be dedicated to the Town and recorded with the deed. A berm or buffer yard may be required at the rear of through lots to buffer residences from traffic on Routes 5 & 20 or Route 15A. The berm or buffer yard shall not be located within the public right-of-way.

3. Pedestrian easements can be utilized to connect pedestrian traffic from residential development to Routes 5 & 20 or Route 15A.

FIGURE 5
Double Frontage Lot Access



H. Lot Width-to-Depth Ratios

Intent: Minimum lot frontage and maximum lot width-to-depth ratios are intended to prevent the creation of long and narrow or irregularly shaped lots that can lead to access and circulation problems.

1. To provide for proper site design and prevent the creation of irregularly shaped parcels, the depth of any lot or parcel shall not exceed 4 times its width.

I. Shared Access

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Intent: The provisions for shared access are intended to prevent a proliferation of driveways on Routes 5 & 20 and Route 15A. Provisions for shared access also promote land development patterns that are more compatible with the rural character of the Town.

1. Subdivisions with frontage on Routes 5 & 20 or Route 15A shall be designed into shared access points to and from the highway. A maximum of two accesses shall be allowed regardless of the number of lots or businesses served.
2. Subdivisions with access to Routes 5 & 20 or Route 15A, via a single residential access street ending in a cul-de-sac shall not exceed 25 lots or dwelling units, and the cul-de-sac shall have a minimum cartway radius of 30 feet.

J. Connectivity

Intent: The provisions for connectivity are intended to encourage trips between adjoining developments and fewer trips on Routes 5 & 20 and Route 15A. This provision strives to maintain a balance between enhancing accessibility and limiting excessive through traffic in residential areas.

1. The street system of a proposed development shall be designed to coordinate with existing, proposed, and planned streets outside of the development as provided in this Section.
2. Wherever a proposed development abuts unplatted land or a future development phase of the same development, street stubs shall be provided as deemed necessary by the Town Planning Board to provide access to abutting properties or to logically extend the street system into the surrounding area. All street stubs shall be provided with temporary turn-around or cul-de-sacs unless specifically exempted by the Town Planning Board, and the restoration and extension of the street shall be the responsibility of any future developer of the abutting land.
3. Collector streets shall intersect with collector or arterial streets at safe and convenient locations.
4. Sub-collector and local residential access streets shall connect with surrounding streets to permit the convenient movement of traffic between residential neighborhoods or facilitate emergency access and evacuation, but such connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through traffic.

Article XIV - Commercial Site Design

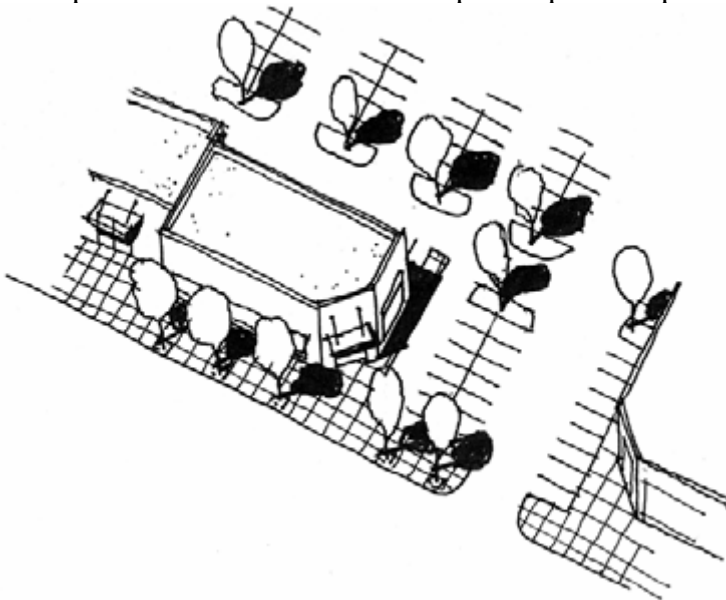
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§250-118. Purpose.

These sections are intended to set threshold standards for quality design in new commercial development. Good design results in buildings that are visually compatible with one another and adjacent neighborhoods and contribute to a commercial district that is attractive, active and safe. These qualities in turn contribute to the creation of commercial districts that facilitate easy pedestrian movement and a rich mixture of land uses. These standards apply to the design of new commercial development and to the expansion of existing commercial development in any district and shall be applied in addition to the access management provision in Section 117.

§250-119. Site Organization

- A. Building Orientation. Building orientation and maximum setback standards are established to help create an attractive streetscape and pleasant pedestrian environment.



- (1) New commercial buildings shall be oriented to existing or new public streets. Building orientation is demonstrated by placing buildings and their public entrances close to streets so that pedestrians have a direct and convenient route from the street sidewalk to building entrances.
 - (a) On sites smaller than 3 acres, commercial buildings shall be oriented to the public street/sidewalk and off-street parking shall be located to the side or rear of the building(s), except where it is not feasible due to limited or no street frontage or where there are access restrictions.
 - (b) Buildings on larger sites may be setback from the public street and oriented to traffic aisles on private property, if the on-site circulation system is developed like a public street with pedestrian access, landscape strips and street trees.

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- (2) At least one major public entrance shall be visible from the abutting public street. Corner entrances may be used to provide orientation to two streets. Customer entrances should be clearly defined, highly visible, using features such as canopies, porticos, arcades, arches, wing walls, and planters.
- B. Street Connectivity and Internal Circulation. The following standards emphasize the importance of connections and circulation between uses and properties. The standards apply to both public and private streets. (See also Access Management, Section 117)
- (1) New commercial buildings may be required to provide street or driveway stubs and reciprocal access easements to promote efficient circulation between uses and properties, and to promote connectivity and dispersal of traffic.
 - (2) Internal roadways shall be designed to slow traffic speeds. This can be achieved by keeping road widths to a minimum, allowing parallel parking, and planting street trees to visually narrow the road.
- C. Large Parking Areas. The amount of parking needed for larger commercial development can result in a large expanse of pavement. Landscaping within a parking area shall be incorporated in a manner that is both attractive and easy to maintain, minimizes the visual impact of surface parking, and improves environmental and climatic impacts. In addition to the provisions of Section 77 (Parking), the following standards apply to commercial development where more than 75 parking spaces are proposed.
1. Walkways are necessary for persons who will access the site by walking, biking or transit. A continuous pedestrian walkway at least 5 feet wide shall be provided from the primary frontage sidewalk to the customer entrance for each building. This internal walkway shall incorporate a mix of landscaping, benches, drop-off bays and bicycle facilities for at least 50 percent of the length of the walkway. The walkways must be designed for access by disabled persons. If the walkway crosses a parking area or vehicle aisle, the standards in subsection (2) below apply.
 2. For the safety of pedestrians, parking lots shall be designed to separate pedestrians from vehicles and include protected pedestrian walkways from parking areas to building entrances. Walkways shall be protected by landscaping or parking bumpers. Walkways shall have a minimum width of 5 feet. Walkways may cross a vehicle aisle if distinguished by a color, texture or elevation different from the parking and driving areas. Walkways shall not share a vehicle aisle.
 3. The parking area shall be divided into pods of no more than 50 spaces each with landscape strips, peninsulas, or grade separations to reduce the visual impact of large expanses of paving, to direct vehicular traffic through the parking lot, and to provide a location for pedestrian walkways.
 4. Pods may have access at one or both ends. A pod may be U-shaped with double access at one end.

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5. Pods shall be separated with physical breaks by providing one or more of the following:
 - a. Landscape strips between parallel parking rows that are a minimum 5 feet in width with no car overhang and 10 feet in width with a car overhang. When incorporating pedestrian walkways, such strips shall be a minimum of 20 feet in width to accommodate vehicular overhangs, walkways, lights, posts and other appurtenances.
 - b. Building pads, landscaped pedestrian walkways, interior streets or other site features.
6. Landscaping for large parking areas shall consist of a minimum of seven percent of the total parking area plus a ratio of one tree per eight parking spaces to create a canopy effect. The total parking area includes parking spaces, travel aisles, sidewalks and abutting landscaped areas.

§250-120. Site Design

Site Design Details. Attention to detail can significantly increase the compatibility of commercial development with adjacent uses. Commercial development shall be designed to comply with the following applicable details and any other details warranted by the local conditions:

A. Screening and buffers

1. Landscape screening and buffers shall be designed to separate commercial/mixed use projects and residential land uses and may be required to screen views of dissimilar land uses.
2. Any undesirable impacts produced on the site, such as noise, glare, odors, dust or vibrations shall be adequately screened from adjacent properties.
3. The amount and scale of on-site landscaping should be appropriate to the proposed land use, and be reflected in the landscape plan as provided for in the submission requirements set forth in ARTICLE XIII (Site Plan review)

B. Landscape

1. Landscaping shall be provided along all building facades facing a parking lot or street which is compatible with context, use or architecture of the site.
2. Appropriate landscaping shall be installed and maintained within all required side and rear setbacks. For side property lines, landscaping shall commence at the front building line. For the rear property line, landscaping shall run from side property line to side property line.

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3. New development fronting on public streets shall provide street tree plantings at 40 foot maximum spacing with minimum 2.5 – 3 inch caliper trees. If trees are to be planted under powerlines, specific varieties should be selected which do not exceed the height of the lowest line when fully grown.
4. Landscaping shall extend to the road edge along all frontages.
5. New plantings and landscape plans that have been included in the design and development proposals for permitted projects or that are part of the conditions set forth in a conditional use permit shall be managed and maintained over the life of the project unless circumstances warrant revisions to these plans. Owners and developers shall be responsible for maintaining the landscaping and associated elements in good condition, with healthy plants and plant replacements as necessary in order to retain the plant numbers and types that have been included in the permitted plans or as referenced in the permit conditions.

C. Lighting

- 1) All lighting shall be glare-free and shielded from the sky, adjoining properties and streets. (See also Outdoor Lighting Standards).

D. Pedestrian Connections.

1. Required between residential and commercial areas. Sidewalks shall be a minimum five-feet in width with a five-foot planted buffer between sidewalk and curb.
2. Walkways shall be provided connecting building entrances and streets adjoining the site.
3. Pedestrian connections to adjoining properties shall be provided except where such a connection is impractical. Pedestrian connections shall connect the on site circulation system to existing or proposed streets, walkways, and driveways that abut the property. Where adjacent properties are undeveloped or have potential of redevelopment, streets, accessways and walkways on site shall be laid out or stubbed to allow for extension the adjoining property.

- E. Pedestrian Amenities. Amenities such as awnings, seating, special paving and planters can have a dramatic effect on the pedestrian environment. Commercial developers should give as much thought to the pedestrian environment as they give to vehicle access, circulation and parking. The standards for pedestrian amenities are related to the scale of the development and also provide the flexibility for the developer to select the most appropriate amenities for the particular site and use.

F. Loading Facilities

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1. Where needed, loading facilities shall be provided on-site of sufficient size and number to adequately handle the delivery or shipping of goods. Where possible, loading areas should be designed so that vehicles enter and exit the site in a forward motion.
2. Once assigned, off-street loading areas shall not be diminished, assigned or used for other purposes without a permit approving such action.

§250-121. Architectural Design

A. General Building Design. New commercial buildings shall provide architectural relief and interest, with emphasis at building entrances and along sidewalks, to promote and enhance a comfortable pedestrian scale and orientation. Blank walls shall be avoided except when not feasible.

1. Ground floor windows shall be provided along frontages adjacent to sidewalks. The main front elevation(s) of buildings shall provide windows or transparency at the pedestrian level of at least 50%. The minimum window and door requirements are measured between 2 and 8 feet from the ground. Only the glass portion of doors may be used in the calculation. If there are upper floor windows, they shall continue the vertical and horizontal character of the ground level windows.



2. Walls that are visible from a public street shall include a combination of architectural elements and features such as offsets, windows, entry treatments, wood siding, brick stucco, synthetic stucco, textured concrete block, textured concrete, and landscaping.
3. New retail, office and institutional buildings shall provide for convenient pedestrian access to transit. For the purposes of this section, “impractical” means where one or more of the following conditions exist:
 - a. Physical or topographic conditions make a connection impracticable. Such conditions include but are not limited to roads, railroads, steep slopes, wetlands or other bodies of water where a connection could not reasonable be provided;
 - b. Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or

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- c. Where streets or accessways would violate provisions of leases, easement, covenants, restrictions or other agreements existing as of January 1, 2009 which preclude a required street or accessway connection.

B. Specialty Equipment

- 1) Rooftop mechanical equipment, satellite dishes, antennae, etc. shall be screened from public view with the use of architecturally compatible materials, parapet or wall.
- 2) Storage areas, trash collection facilities and noise generating equipment shall be located away from public streets and abutting residential uses unless sight obscuring fencing has been provided.