

**Zoning Law**

Adopted 10/12/2023

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## Zoning – Chapter 100 – Town of Aurelius

### GENERAL REFERENCES

**Subdivision of land – See Ch. 139.00**

### ARTICLE I

#### PURPOSE AND DEFINITIONS

##### **§ 100-1 Purpose.**

The general and overall intent of this chapter is to promote the health, safety, and welfare of the community. Further purposes of this chapter are:

- A. To minimize conflicts from incompatible uses.
- B. To secure from fire, flood, panic and other hazards.
- C. To provide adequate light and air.
- D. To prevent overcrowding of land.
- E. To prevent undue concentration of population.
- F. To lessen congestion in the streets.
- G. To provide a variety of use districts within the town to accommodate a diversity of residential densities and types.
- H. To facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks and other service requirements.
- I. To encourage the most appropriate use of the land based on its natural characteristics.
- J. To protect important natural and scenic resources such as lakes, streams, wetlands, aquifers, historical sites and agricultural land.
- K. To preserve the quality of natural resources, including air, water, soil, and vegetation.
- L. To maintain and enhance the rural character and viability of agriculture and agribusiness of the town.

##### **§ 100-2 Definitions.**

**ACCESSORY STRUCTURE** – A structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure.

ADULT ENTERTAINMENT – Includes the causing, permitting or allowing of:

A. Offering printed materials, photographic reproductions or live performances which are characterized by an emphasis on persons who appear nude or in a state of nudity, semi nudity; and/or which are characterized by an emphasis on persons who expose specified anatomical areas or engage in depiction or description of specified sexual activities; and/or

B. Conduct by employees who, as part of their employment, expose to patrons specified anatomical areas; and/or by two or more persons who congregate, associate or consort for purposes of specified sexual activities, exposure of specified anatomical areas or activities when one or more of them is in a state of nudity or semi nudity; and/or

C. Offering paraphernalia designed, used or marketed primarily for stimulation of human genital organs or sadomasochistic use or abuse; and/or massage or any other treatment or manipulation of the human body which occurs as a part of, or in connection with, specified sexual activities or where any person providing such massage, treatment or manipulation exposes specified anatomical areas of their body.

AGRICULTURE – The science, art, business, and industry of cultivating soil, producing crops, and raising livestock and equestrian animals; farming as defined by the New York State Department of Agriculture and Markets.

AGRICULTURAL DISTRICT – Article 25-AA of the Agricultural & Markets Law of New York State authorizes the creation of local agricultural districts pursuant to landowner initiatives, preliminary court review, state certification, and county adoption. Agricultural Districts protect farming from overly restrictive local laws, government funded acquisition on construction projects, and private nuisance suits involving agricultural practices.

AGRICULTURAL INFRASTRUCTURE – Agricultural infrastructure generally includes irrigation and access to water; means of transportation; storage services; commercial infrastructure; processing infrastructure; public services; agricultural research and extension services; communication and information services; land conservation services; credit and financial institutions; and, finally, health and education services relating to AGRICULTURE and farming.

AGRICULTURAL TAXING DISTRICT – A special agricultural district that provides a “use value” assessment for eligible farmland (e.g., agricultural exemption and special benefit exemption). This allows farmland to be taxed for its agricultural value rather than its market value (i.e., non-farm development value). Any owner of land used for agricultural production may qualify to be included in an Agricultural Taxing District if the land meets the requirements of New York State Real Property Tax Law or is rented to an eligible farm operation.

AGRICULTURAL ZONING DISTRICT – An agricultural zoning district is a district formed by the Town for the purposes of accommodating agricultural land uses. The district is one of several zoning districts in the Town, but is intended to provide a means for protecting economically viable farming activities from incompatible land uses.

ALTERATION – As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities; or the enlargement in height or area; or the moving from one location to the other.

ANIMALS – This chapter recognizes and addresses three basic categories of animal that are relevant to control within the scope and purpose of this chapter– domestic, farm and exotic or wild animals.

A. DOMESTIC ANIMALS – Those species that have historically been bred to live with people and are commonly trained and associated with people’s homes or places of work as pets or as (non-farm) working companions; these are dogs and cats. Other animals that have a historical presence as pets are some non-domesticated species that are maintained within glass tanks, cages or similar display containers and include tropical fish, birds, small reptiles (turtles, frogs, lizards), and small rodents (hamsters, gerbils, mice and rats). Note: These non-domesticated animals are commonly available from retail pet stores, and supplies and food for their care are generally available in general merchandise outlets, such as grocery or department stores.

B. FARM ANIMALS – Those species that have historically and commonly been associated with agricultural uses as the production product (food, hides, fur, etc.) or as work animals directly related to agricultural process (hauling, plowing, etc.). Typical farm animals include horses, buffalo, cows, chickens, sheep, and pigs. Other animals such as llamas, emus, alpacas, and rabbits, are included if they are associated with agricultural uses as defined by Article 25AA of the Agricultural and Market Laws. Some species of fish are also raised in aquatic farms, such as salmon, catfish, and trout. An agricultural use may be devoted solely to animal breeding for sale and end use by others, such as horses that are used for recreational purposes (racing, riding, or show).

C. EXOTIC (WILD) ANIMALS – Those species that are indigenous or non-indigenous wild animals captured or bred in captivity and typically are not acclimated through selective breeding to regular human contact. Though individual animals of many species have been domesticated for such human purposes as education (zoos, teaching facilities), entertainment (theater, circus shows) or even as pets, they are not considered to be domestic or farm animals. Examples include large animals – monkeys, apes, lions, tigers, wolves, alligators, and boa constrictors. Small animals include – falcons, hawks, squirrels, and raccoons. Some animals, such as ferrets, may require special licensing from New York State to be sold or maintained as pets. Due to the size, characteristics, or nature of some of these animals, they remain potentially harmful to humans and require special care and monitoring even when domesticated.

ANTENNA – A system of electrical conductors that transmits or receives radio frequency signals. Such signals shall include, but not be limited to, radio, television, cellular, paging, personal communications services (PCS) and microwave communications.

A. RADIO ANTENNA – Any receiving antenna other than a SATELLITE ANTENNA.



B. SATELLITE ANTENNA – Any parabolic dish, antenna or other device or equipment of whatever nature or kind, the primary purpose of which is to receive television, radio, light, microwave or other electronic signals, waves and/or communications from space satellites.

APARTMENT – A dwelling unit in a modified single-family unit, duplex, multiple-family dwelling or mixed-use occupancy building.

BED-AND-BREAKFAST RESIDENCE – A type of home occupation in an owner-occupied, single-family residence offering overnight lodging for guests or tourists and may include dining facilities limited only to the overnight guests.

BUILDABLE AREA – The area within a lot eligible to be built upon or occupied by structures and/or land use activities that is bounded and established by the required front, side and/or rear building lines set forth in the zone district requirements or supplemental regulations.

BUILDING – A type of structure wholly or partially enclosed within exterior walls and a roof to be used for sheltering people, animals, property, business or other activities. Structures divided with interior walls extending from the foundation through to the roof shall generally be considered separate buildings. Common examples include – houses, garages, factories, barns, and mobile homes. Fences, signs and temporary structures, such as tents, are not buildings.

BUILDING HEIGHT – The vertical distance as measured from the average elevation of the proposed finished grade (ground surface) at the front of the building or of a structure to the highest point of the building or the structure, which highest point shall include, but not be limited to, the highest or topmost point of the roof, together with all towers, chimneys, penthouses, signs, tanks, elevators or stair bulkheads, mechanical equipment, and/or light poles.

BUILDING LINE – A line or lines determined by zone district setback requirements, parallel to the property lines and establishing the closest points that a structure may be placed within a property.

BULK STORAGE – The commercial development of land to be used or occupied by structures, equipment, vehicles, or storage areas designed to hold and distribute large quantities of material. Examples include petroleum products, fuels, and potentially hazardous chemicals.

CANNABIS – Refer to §100-79.

CEMETERY – Land improved and maintained for the interment of human or animal remains and may include interment structures, such as mausoleums, administrative and maintenance structures and facilities for conducting funeral services, but excludes facilities for the cremation of human or animal remains.

CLUSTER DEVELOPMENT – A development style that encourages a higher density of dwellings per acre on a portion of a development site while maintaining overall density allowed under zoning. The intent is to retain open space areas but clustering may also be used to preserve farmland and environmentally constrained areas within a proposed development.

**CODE ENFORCEMENT OFFICER (CEO)** – The person or persons appointed by the Town of Aurelius as the administrative official responsible for enforcing the Zoning Law as well as other State and local code requirements.

**COMMERCIAL EXCAVATION** – excavation of earthen materials (i.e., soil, minerals, rocks) intended for commerce.

**COMMUNITY CENTER** – A facility under the direct supervision and control of a charitable, religious, social service or similar not-for-profit civic organization designed and used as a place of assembly for religious, social, recreational or educational programs and meetings for the general public. A center may contain incidental food facilities. It shall exclude private clubs and any facilities to house or lodge overnight guests.

**COMPREHENSIVE PLANNING** – The ongoing process initiated by the Town to formulate and/or implement immediate and long-range goals and objectives for the enhancement and development of the Town. These processes include the accumulated case actions, analyses, policies, studies, reports with or without maps and may, or may not be formally adopted by the Town.

**COMPREHENSIVE PLAN** – “The Town of Aurelius Community Comprehensive Plan” adopted on January 11, 2007 by the Town Board and any subsequent revisions adopted in accordance with Section 272-a of the Town Law of New York State, which indicates the general locations recommended for various functional classes of public works, places and structures and the general physical development of the town and includes any unit or part of such plan separately prepared and any amendment to such plan or parts therein.

**CONVENIENCE STORE** – A small retail store offering roadside convenience that is less than 2100 square feet in retail floor area (e.g., gross floor area) and contains up to four stations for simultaneously fueling four vehicles at one time. Convenience stores containing five or more stations for simultaneously fueling five vehicles at one time shall be called a **MOTOR VEHICLE SERVICE STATION**.

**CORNER LOT** – A lot located at the intersection of and fronting on two or more intersecting streets and having an interior angle at the corner of intersection of less than 135°. The wider ROW frontage of a corner lot shall be the front of the lot. Front yard setbacks on corner lots shall be governed by the most restrictive setback and corner lots shall have two equal front yards at the road line (e.g., highway ROW line). Corner lot shall have one side yard and one rear yard established in relation to that front yard. (See also “lot, three-sided.”)

**COUNTRY STORE** – The purpose of a country store is to provide opportunities for agricultural enterprises located in the Town to retail their products directly to consumers. Agricultural products grown or otherwise produced by the owner must constitute a substantial portion of all items sold at a country store. The sale of other related items of an agricultural or country nature is permitted to attract customers and promote the sale of the owner’s agricultural products. Such related items include produce, plants, lawn and garden supplies, pet food, baked goods, ice cream, clothing items promoting the store and the like. Prohibited sales include vehicles, petroleum products, hardware, tobacco products, beer and liquor, non-promotional clothing,

furniture, sporting goods, farm or garden machinery, and other items not related to and designed to promote the agricultural nature of the establishment. With the exception of serving food composed primarily of ingredients produced on the owner's farm, such facility shall not include an indoor restaurant.

**CROPLAND** – Land without any buildings used for the commercial production of agricultural products, such as corn, wheat, vegetables, ornamental plants, or fruit. It may include minimal improvements and/or structures, such as fences or irrigation systems.

**CROSS ACCESS** – An easement or service drive providing vehicular access between two or more contiguous sites so that the driver does not need to re-enter the public street system.

**DAY-CARE CENTER** – A land use in which care and supervision of (at least three or more) minors (children) or dependent adults is provided on a daily or regularly programmed basis outside of their place of residence. Care for each person is for less than a period of 24 hours and may occur during any part of a day. Examples of activities which are day-care facilities under this code include – nursery schools, preschool programs, after-school programs or day-care centers, and senior day-care facilities.

**DRIVE-IN SERVICE** – An accessory or primary land use that is a facility from which customers conduct any business, secure consumer goods or services, and such goods and services are dispensed for use or consumption either off-premises or while the customers remain in their motor vehicles. This facility may be a mechanical device, a service-type window, or a kiosk attached to or detached from a principal building. This definition includes facilities commonly referred to as – “drive-in or drive-through banks,” “drive-in restaurants and movie theaters,” “ATMs (automatic teller machines),” and “drive-up kiosks.” This definition specifically excludes gasoline service stations, car washes, and similar motor vehicle services where the vehicle is the object of the retail service; it also excludes designated vehicle loading areas accessory to retail or wholesale uses.

**DUMP** – A lot, or land, or part thereof, used primarily for the storage or disposal by abandonment, dumping, burial, 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** – A house, apartment building or other permanent building designed or used primarily for human habitation.

**DWELLING, MULTIPLE-FAMILY** – A building designed for and occupied as a principal use by three or more dwelling units.

**DWELLING, ONE-FAMILY** – A building containing only one dwelling unit, and occupied by only one family.

**DWELLING, TWO-FAMILY** – A building containing only two units, and occupied by only two families.

DWELLING UNIT (DU) – A complete self-contained residential unit that provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. A single unit is intended for use by one traditional family as defined by the U.S. Bureau of the Census.

EMERGENCY VEHICLE STATION – The use of land, structures or facilities to store, care and operate emergency rescue, fire, or ambulance services. It may include space for vehicles, equipment, and personnel.

EASEMENT – Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

ENGINEER or LICENSED PROFESSIONAL ENGINEER – A person licensed as a professional engineer by the State of New York.

EPA – The Environmental Protection Agency.

EXCAVATION – Land used for the removal and transfer of sand, gravel, rock or stone, topsoil or earth and similar substances from their original or natural locations to a different property. Examples include– borrow pit, gravel or sand pit or mine. This definition shall exclude the removal of such substances incidental to the construction or the operation of a principal use and when the removed substances are redistributed on the original site or disposed of in accordance with a method approved by the Town.

FAA – The Federal Aviation Administration.

FAMILY – One or more persons occupying the premises and living as a single housekeeping unit with common use, care and access to living and sleeping areas with shared cooking, eating and toilet facilities as distinguished from a group of individuals occupying specified rooms and without common access, use, or care of the entire dwelling, such as within a boarding and rooming house, motel/hotel, dormitory, fraternity/sorority, club or hospital/nursing home.

FARM – Land occupied for the commercial production of field crops, fruits, vegetables, ornamental plants, livestock and livestock products, woodlands or similar products. A farm may include one or more noncontiguous properties, but the primary farm properties (those occupied by a farm residence, farmstead, or any other farm-related structures) shall meet the zone district’s minimum dimensional standards. A farm typically includes buildings, structures and outdoor areas for the storage, distribution, use of fuel, supplies, equipment, and raw agricultural products and may include buildings used for residential purposes; the term includes facilities to process, cook, and mill or transform raw agricultural products into retail consumer goods. Farm waste energy systems are specifically excluded from the meaning of the term “farm” as used herein. (See also “cropland” definition; for retail sale, see “farm stand.”)

FARM STAND – An incidental and subordinate activity of a farm, commercial nursery or greenhouse involving a building or lot or portions of a building or lot used for the seasonal retail sale of agricultural products, and may include activities in which retail customers pick or select their own produce from the fields or growing areas. A farm stand sales area may be one or more

noncontiguous spaces within a property and shall be greater than 100 square feet. A total sales area of 100 square feet or less does not constitute a farm stand.

**FARM WASTE ENERGY SYSTEM** – An arrangement or combination of farm waste electric generating equipment, structures, or other materials, hardware or equipment necessary to the process by which agricultural waste biogas is produced, collected, stored, cleaned, and converted into forms of energy such as thermal, electrical, mechanical or chemical. For purposes of this chapter, the term “farm waste energy system” shall mean and include any bio-digester or other aerobic or anaerobic farm waste digestion equipment. It does not include pipes, controls, insulation or other equipment which are part of the normal heating, cooling or insulation system of a building.

**FCC** – The Federal Communications Commission.

**FENCE** – A structure serving as an enclosure, a barrier, or a boundary, usually made of posts or stakes joined together by boards, wire, or rails comprised of any material not exceeding 8’ feet in height above the finished grade with a finished aesthetic treatment facing neighboring yards, streets or facing a direction most visible by the general public.

**FLAG LOT** – A parcel of land shaped like a flag; the staff is a narrow strip of land providing vehicular and pedestrian access to a street, with the bulk of the property lying to the rear of other lots or; An irregularly shaped lot with at least two major portions – a non-developable narrow area abutting a right-of-way connected to the larger developable area surrounded by other lots, conforming in all other respects to the district lot and setback requirements. The un-developable portion of the lot shall be maintained clear of all structures and have a minimum width of 30 feet.

**FLOOD HAZARD BOUNDARY MAP (FHBM)** – The official map of a community, issued by the Administrator of the Federal Emergency, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

**FORESTRY** – Includes harvesting, thinning, replanting and any other activities concerning forest management practices.

**FRONT YARD** – See “yard, front” (applicable to other derivations, e.g., front yard depth, front yard width).

**FUNERAL HOME** – A building or portion of building designed and occupied for the preparation of deceased persons or animals for burial and for the arrangement and management of burial ceremonies; the use commonly includes accommodations for people to congregate and hold ceremonies and includes the terms “funeral parlor” “mortuary” or “undertaker.” The term excludes facilities for the cremation of human remains or animals. (See “personal service use.”)

**GASOLINE SERVICE STATION** – A building, structure or area of land used primarily for the servicing of motor vehicles. It shall primarily include facilities for the retail sale and dispensing of motor fuels and petroleum products, goods and services generally required in the operation and maintenance of motor vehicles, sale and servicing of tires, batteries, automotive accessories and replacement items; lubrication services and the performance of routine automotive

maintenance and repairs. It may include areas for the retail sale of items such as – prepared foods, groceries, magazines, household or personal care items. (Not to be considered a Convenience Store or Service Station.)

**GRAPHIC PLAN** – Drawing(s) of a site offering a depiction of how a site exists or is proposed to be modified. The graphic plan typically accompanies the submission application or documentation for a zoning approval and will be drawn to scale and include details specified by the Town.

**GREENHOUSE, ACCESSORY** – An accessory structure for a residential, nonresidential or commercial land use that is typically enclosed with glass, plastic or similar materials and which may be used for personal enjoyment and/or the noncommercial production of plants.

**GREENHOUSE, COMMERCIAL** – A structure typically enclosed with glass, plastic or similar translucent materials within which agricultural or horticultural products are grown for retail or wholesale sale, and includes appropriate areas for parking, loading and storage, office and customers.

**GROSS FLOOR AREA** – The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls. In addition to areas primarily used for human occupancy, the term also includes basements, elevator shafts, stairwells and any floor space (attics, penthouses, mechanical rooms) with structural headroom of six feet, six inches or more.

**GUN CLUB** – A specialty venue designed for firearms usage.

**HAMLET** – A small settlement or cluster of mixed land uses, usually associated with transecting streets too small to be considered a Village or below the population threshold to be incorporated as a Village (Example – “Half Acre” crossroad with Genesee Street Road in the Town of Aurelius).

**HEARING, INFORMATIONAL** – An informal process that may be required by this code or may be optional by a reviewing board; its primary purpose is to disseminate and present information to the public. The reviewing board shall establish the notification requirements and conduct of the meeting.

**HEARING, PUBLIC** – A formal process required by NYS law and/or this code; its primary purposes are to provide information to the public and to solicit opinions and comments from the public. NYS law, this code and/or Town policy stipulate notification requirements.

**HEAVY EQUIPMENT SALES, SERVICE AND STORAGE** – A use where construction, farm or similar large equipment and machinery may be sold, stored, displayed or serviced. Such activities may be conducted in open areas outside of any structures.

**HOME OCCUPATION** – Any personal or professional service, trade or occupation conducted within a dwelling by any member of the family residing in the unit, which use is incidental to the primary use of the property for residential purposes. Home occupation shall not change the residential character of the unit.

**HOSPITAL/CLINIC** – An institution specializing in giving medical, surgical or rehabilitation treatments to persons on an in- or out-patient basis, and may include lodging and dining facilities for the patients and staff.

**INDOOR RECREATION – PARTICIPANT** – A principal use of structure for individual or small group sporting events or recreational activities, such as – indoor tennis courts, bowling alleys and athletic clubs. Such facilities are designed for the direct use and participation of most of the attendees, and may include minimal spectator facilities.

**INDOOR RECREATION – SPECTATOR** – A principal use of structure for individual or team sporting events or recreational activities, such as indoor soccer fields and basketball courts. Such facilities are designed for the direct use and participation of some of the attendees, and include substantial spectator facilities.

**INFRASTRUCTURE** – The various public and private systems and facilities necessary to support the functionality of a community (e.g., sewer and water, electric, wind towers, communication lines, wireless communication towers and devices, roads, railroads, canals etc.).

**JUNKYARD** – Land occupied by an activity principally characterized by the collection, dismantling and salvaging of waste material, inoperative equipment, machinery or motor vehicles, and may include the retail sale and/or wholesale distribution of salvaged material. (See “dump.”)

**KENNEL** – (See “animals” and animal-related definitions.) A land use or structure used for the commercial harboring or care of domestic animals, such as dogs, cats, and similar domestic pets.

**LANDFILL** – A site used for the disposal of waste materials.

**LAND USE** – A type of term used in this code as a group label for terms that describe and define human activities (land uses) that may occur on the land.

**LANDSCAPING** – A process of improving land which may include, but is not limited to, planting trees, shrubs, flowers, adding ornamental features, or mowing grass.

**LIBRARY** – A public or private institution maintaining a selection of books, records and similar media for use by the general public or membership, and may include meeting or lecture rooms, but shall exclude businesses which rent books, records, videotapes, videodiscs, athletic equipment or similar objects for compensation or profit.

**LOT** – An area of land defined by property lines shown on a deed, survey or official tax map, and is considered as a unit, occupied or capable of being occupied by one principal building and accessory buildings or uses, or when permitted in this code by multiple buildings or uses united by a common use or interest; and including such open spaces as are required by this code, and having frontage on a public or private right-of-way or an officially approved right-of-way.

**LOT AREA** – The total square footage within the property line of a lot, including easements and excluding land within dedicated streets or highway boundaries.

**LOT, ORIENTATION** – The orientation of lot shall be determined as follows. The front property line of a lot shall be same as the street right-of-way line, regardless of length and intended orientation of any existing or proposed buildings, and the side and rear lines shall be determined relative to that front line. For corner, reverse-frontage and flag lots, see applicable definitions. For all other irregularly shaped lots, the Planning Board shall determine the lot orientation.

**LOT, REVERSE-FRONTAGE** – A non-corner lot that has two opposite lot lines contiguous with a street right-of-way line, one line representing the front and the other representing the rear of the lot. Unless specified during a subdivision approval process, the front lot line shall be determined by Planning Board and shall be based upon the following guidelines – the predominant orientation of nearby lots, the character of the abutting rights-of-way, and the existing or intended land use.

**LOT, THREE-SIDED** – A lot with only three property lines forming its boundaries. For purposes of enforcement, it shall have: no rear yard, two side yards and a front yard extending the entire width of the lot. The front yard shall conform to the requirements of the applicable zone district and shall have two side yards. Side yard depth shall be a minimum 15 feet each, regardless of the zone district requirements.

**LOT WIDTH** – The distance between the side property lines measured along the front building line as determined by the applicable front yard setback requirement as defined in this code.

**MANUFACTURING** – Land and/or a building occupied to process or transform raw or previously processed materials into finished products or parts and the storage and distribution of those materials to other manufacturers and/or wholesale or retail businesses. Examples include – furniture manufacturer, metal processing, chemical processing, or assembly plants. This use shall exclude bulk storage and distribution of petroleum, natural gas or potentially hazardous chemicals.

**MANUFACTURED HOME (MODULAR, DOUBLE-WIDE, PRE-MANUFACTURED)** – A transportable dwelling unit suitable for one family, year-round occupancy and containing the same conveniences as immobile housing with respect to water supply, light, heat, power and waste disposal. A manufactured home is a portable residential unit that is constructed at a remote location and is shipped to a development lot for assemble and finishing. A manufactured home or unit consists of two or more separately moveable components designed to be joined into one integral unit capable of being again separated into the components for transport (modular or double-wide configuration). Though manufactured units retain mobility, they are designed to be used as long-term residential units and exclude single-wide mobile homes (See definition), travel trailers, motorized homes, pickup coaches, camping trailers, and all forms of recreational vehicles.

**MARGINAL ACCESS** – Access from roads parallel to and adjacent to arterials that abut properties and provide protection from through traffic. Marginal access roads and streets will be construed as local access or secondary collectors dependent on area served and traffic anticipated from particular developments.



**MEDICAL OFFICE** – An office where patients are treated or attended to by medical practitioners that include but are not limited to – physicians, dentists, physical or occupational therapists, laboratory tests, diagnostic (X-ray, MRI, etc.) testing. This definition excludes clinics and hospitals.

**MICROWAVE** – A method of providing telecommunications bandwidth by means of a series of antennas, transmitters and reflectors on towers.

**MINI-WAREHOUSE** – See “public self-storage facility.”

**MOBILE HOME (SINGLE-WIDE)** – A mobile home, sometimes referred to as a “trailer” or “single-wide” is a portable unit designed and built to be towed on its own chassis comprised of a frame and wheels and designed for occupancy without a permanent foundation for year-round living. A unit may contain parts that may be folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity. Mobile Home shall also include tiny houses, as defined in the Residential Code of New York State. Mobile home does not include manufactured homes, pre-manufactured “double-wide” homes or modular homes (See Definition of manufactured home).

**MOBILE HOME PARK** – Any site, lot, field, or tract of land upon which two or more mobile homes are harbored.

**MORTUARY** – Any licensed regulated business that provides for the care, planning and preparation of human remains for their final resting place. A mortuary usually arranges and conducts funeral and memorial services, embalming and other services such as the sale of caskets. SEE FUNERAL HOME.

**MOTOR VEHICLE** – A vehicle as defined in Section 125 of the Vehicle and Traffic Law of New York State.

**MOTOR VEHICLE SALES, SERVICE, RENTAL** – Land and structures commercially used for the servicing and repair (including auto body/collision repair), sales, or rental of motor vehicles; including cars, trucks, recreational vehicles, motorcycles, trailers, snowmobiles or boats.

**MOTOR VEHICLE SERVICE STATION** – Any area of land, including structures and buildings thereon, which is used for the supply of gasoline, oil, or other fuel for the propulsion of motor vehicles that may or may not include facilities for polishing, washing or otherwise cleaning such vehicles. Any “convenience store” with five or more stations for fueling vehicles at a single point in time shall be called a MOTOR VEHICLE SERVICE STATION and the retail store will be considered an ancillary use.

**MULTI-FAMILY DWELLING** – A structure containing more than one separate residential dwelling unit.

**NATURAL PRODUCTION USES** – Includes organic farming, naturally occurring biological processes, or near organic methods of producing agricultural products without utilizing synthetic pesticides, herbicides, agri-chemicals, hormones, or other non-natural means (example: organic farming).

**NEIGHBORHOOD ORIENTED COMMERCIAL SERVICE** – A commercial use such as a small grocery store, general or specialty stores which furnish convenience goods and services to meet the daily needs of the residents of the neighborhood.

**NIGHTCLUB/DANCE HALL** – Establishments typically open to the public that predominantly includes areas for customer dancing or similar activity from live performance or recorded musical entertainment; it may include incidental food services and eating areas. (See also “land use,” “restaurant,” and “indoor recreation-participant.”)

**NONRESIDENTIAL USE** – A building or structure of any kind whatsoever used, designed, or intended to be used for other than residential use and includes all commercial, industrial and institutional uses.

**NURSERY, COMMERCIAL** – Land and/or building improved and occupied for the commercial raising, storage or retail sale of household or ornamental plants, and may include the incidental sale of garden supplies.

**NURSERY SCHOOL** – See “day-care center.”

**NURSING HOME** – An establishment where elderly, sick, invalid, infirm or convalescent persons are housed or lodged, furnished with meals and long-term nursing care and rehabilitation for hire.

**O AND M or O & M** – Operation and Maintenance of municipal facilities and systems.

**OFFICE** – A building or a portion of a building exclusively occupied to perform services as a principal, accessory or incidental use of an administrative, professional or clerical nature and includes activities such as – insurance, real estate, financial, legal, design, and management. It shall exclude a “medical office,” separately defined in this code.

**OFFICIAL MAP** – The map established by the Town Board pursuant to §270 of the Town Law, showing streets, highways, parks and drainage, both existing and proposed.

**OUTDOOR RECREATION – PARTICIPANT** – A principal use of land or structures for individual or small group sporting events or recreational activities, such as swimming pools, tennis courts, golf courses and exercise tracks, archery, pistol or rifle ranges. Such facilities are designed for the direct use and participation of most of the attendees and may include minimal spectator facilities. This land use may include incidental facilities for serving food and beverages.

**OUTDOOR RECREATION – SPECTATOR** – A principal use of land and facilities for individual or team sporting events or recreational activities, such as outdoor soccer, football or baseball fields or basketball courts. Such facilities provide substantial spectator seating and observation areas and may include space for direct participation of some of the attendees. This land use may include incidental facilities serving food and beverages.

**OUTDOOR RETAIL SALES, DISPLAY AND SERVICE** – (See also “retail use.”) The use of an area of land outside of a building for the sale, display, servicing or storage of products,

equipment, supplies, or merchandise related to a retail use. Such areas may be incidental to a principal retail use occupying a building or may be the primary sales area and include by illustration the sale of lumber, building or garden supplies, but specifically excludes vehicle sales, service or repair, junkyards, waste or scrap products or farm products.

**OUTDOOR WOOD-FIRED BOILER (OWB)** – OWB’s are wood-fired water heaters that are located outdoors or are separated from the space being heated. The fires in the large fire boxes heat water that is circulated into the structure through underground pipes. The energy may be used to heat houses, shops, domestic hot water, greenhouses, swimming pools, and spas. Indoor installed wood boilers are a variation of an OWB. They are in the same legal category as OWB’s, and subject to the same regulations except that OWB’s not contained within the structure shall be subject to less restrictive fire safety requirements.

**OVERLAY – OVERLAY ZONE** – A zoning “overlay” builds on the underlying zoning, by establishing additional or stricter standards and criteria; the standards of the overlay zone apply in addition to those of the underlying zoning district. Overlay zoning can be an effective tool for communities to use in protecting specific resources from development pressures.

**PARCEL** – An area of land to be subdivided or consolidated. (See also “lot.”)

**PARKING SPACE** – An area for the temporary parking of a motor vehicle consisting of at least 180 square feet with a minimum width of 9.0 feet.

**PARK/PLAYGROUND** – Public or Private land reserved and minimally improved for recreational, educational or scenic purposes available to the general public or to a limited membership and may include facilities such as ball fields, tennis and basketball courts, playground equipment, storage and service buildings and picnic shelters, but excludes outdoor recreational (participant or spectator) uses as defined in this code.

**PERIMETER LANDSCAPE STRIP** – The land adjacent to front, side and rear lot lines, included within the same space for required setbacks but solely designed and used for buffering and transition between lots. Irrespective of allowable structures or uses within such required setbacks, the perimeter strip shall not be used for parking. Driveways and walks are permitted to transverse a perimeter strip to allow for necessary vehicle and pedestrian movements. It is intended that such perimeter strip be used for planting of trees, shrubs, flowers, and evergreens to provide neighborhood beautification and separation of incompatible land uses.

**PERSONAL SERVICE USE** – A commercial activity where the customer is typically present and is the direct object of the services received and characterized by the direct on-premises sale of services to the ultimate customer and includes uses commonly referred to as – “barbershops,” “beauty salons,” “dry cleaners,” “self-service laundries” and similar activities. (See also “retail use.”)

**PLACE OF WORSHIP** – A building or premises used for regular public worship by members or representatives of a religious sect or organization as defined by state statute.

**PLANNED DEVELOPMENT ENTERTAINMENT AND TOURISM DISTRICT – (PDET)** – A development in which the principal activities include indoor and outdoor recreation and

entertainment that relate to tourism activities or events. (This district designation is intended to regulate activities such as recreational park, casinos, sports complexes, entertainment uses and supporting facilities.)

**PLANNED UNIT DISTRICT DEVELOPMENT (PUD)** – Developments that are predominantly residential and have creative site design and a mix of uses by incorporating flexibility into special ordinances that are exclusive to the PUD, especially with regard to use, setbacks and minimum lot sizes. PUD’s may include provisions to encourage clustering of buildings, designation of common open space, and incorporation of a variety of building types and land uses.

**PLANNING BOARD**– The Planning Board of the Town of Aurelius.

**PRINCIPAL STRUCTURE** – The main structure or building on a lot or parcel in which the property’s principal use occurs.

**PRIVATE CLUB OR PRIVATE RECREATION FACILITIES** – A facility under the direct supervision and control of a charitable, religious, fraternal, social service, public or similar community organization, including not-for-profit corporations, providing, and generally limited to, club membership, a place of congregation or meeting for purposes of education, training, counseling, active or passive recreation or similar pursuits, including social facilities. This land use may include incidental facilities for serving food and beverages. This term shall not include schools, adult entertainment or retail business activities.

**PRIVATE RECREATIONAL CAMPSITE** – A privately owned camping area used on a daily, nightly, weekly, or longer basis for the accommodation of temporary accommodations such as tents or recreational vehicles.

**PRIVATE SCHOOL** – An independent, non-governmental school that is privately funded.

**PROPERTY LINE** – Legal boundary surrounding any area of land that is properly recorded on a deed, survey or tax map with the Town and/or County Clerk. For purposes of this code, any street, highway, or railroad ROW line shall also be considered a property line. Power and utility transmission ROW lines shall not be property lines unless explicitly noted in appropriate legal documents.

**PUBLIC SCHOOL** – A school funded by taxation.

**PUBLIC SELF-STORAGE FACILITY** – A land use characterized by the retail rental of storage space or units for holding personal or business items with direct customer access to the storage space. Examples include – mini-warehouse, public storage, or self-storage facilities; the use excludes– temporary or portable units, such as “PODS” tractor-trailers or storage trailers (with or without wheels), that remain on-site for a period of less than 60 days.

**RECYCLING BULK PROCESS FACILITY** – A principal land use engaged in the commercial bulk collection of recyclable materials from off-site or unrelated sources, and may include the associated storage, processing, distribution and/or resale of these materials. Materials collected may include appliances, motor vehicles, construction waste, by-products of manufacturing

processes, organic materials and materials received from recycling collection sites (see separate definition). Recyclable materials exclude any material considered under the Town Code to be garbage.

**RECYCLING COLLECTION SITE** – A principal, secondary or accessory land use engaged in the collection of recyclable materials directly from consumers and includes the temporary storage for transfer to a recycling bulk processor or an approved waste disposal site. For purposes of enforcement, these sites, when permanently established, shall be considered retail uses. Such uses may include – collection bins or equipment for bottles and cans, batteries (excluding motor vehicle batteries), paper products, plastics, packaging or similar types of items commonly used in households or offices. These uses specifically exclude– the collection of any organic by-products or waste, typical household or office trash, medical waste, furniture, appliances or any motor vehicles. Examples include– redemption centers, bottle and can collection areas or equipment at retail stores, temporary (nonprofit fundraising) collection sites, or retail stores accepting trade-in products, such as computers or similar electronic equipment.

**RECYCLING PROCESS** – An activity that collects, transforms, compacts, breaks down or otherwise converts waste, by-products of manufacturing processes, or finished products into smaller or component parts. These parts may then be disposed of in an approved waste disposal site or made available for reuse in any other process, such as – manufacturing, construction, or agriculture. Examples include – glass crushing, reprocessing of road asphalt, composting, paper reprocessing, metal separation, organic-waste treatments, separation or refinement of chemicals or paints, motor vehicle oil (used) re-treatment.

**RECYCLING PROCESS FACILITY** – Equipment, structure or area of land used as a secondary or accessory land use in a recycling process. This facility shall be integral or directly related to the production process of any principal agricultural, commercial or industrial land use. Examples include – organic composting bins or areas, animal waste (manure) holding areas and spreading equipment, or treatment plants for manufacturing by-products or waste. A recycling facility for typical household residential uses (e.g., garden composting bins) is excluded from this definition.

**REGULATION GOLF COURSE** – A public or private golf course consisting of nine or more holes with grass tees, fairways and greens.

**RENDERING PLANT** – A facility to process and convert raw animal products, by-products or general food waste into nonfood products that may be commercially usable for agricultural, industrial or consumer purposes, such as oil, soap, or fertilizer.

**RESIDENTIAL LOT and RESIDENTIAL BUILDING PLOT** – Any parcel of land of whatever size, any point on the boundary line of which is less than one-half mile from a point on the boundary line of another lot in the same tract, unless any lot may not legally be used for residential purposes.

**RESIDENTIAL USE OR RESIDENTIAL STRUCTURE** – Land, buildings or structures or portions thereof used, designed, or intended to be used primarily as living accommodation for one or more individuals.

**RESTAURANT** – A building or portion of a building occupied for the retail sale of food and/or beverages that are prepared and served in a ready-to-consume state for either on- or off-premises consumption. This definition includes uses commonly referred to as – “luncheonettes,” “snack bars,” “family restaurants,” “ice cream or pizza parlors,” “take-out restaurants,” “taverns,” “inns,” “delis,” “pizza shops,” and “cafes.” Excluded are – nightclubs/dance halls, temporary facilities associated with carnivals, field days, charitable fundraising or similar events and the incidental retail sale of prepared food accessory to another principal use, such as a gasoline service station or employee cafeterias and snack areas.

**RETAIL USE** – An activity primarily characterized by the on-premises sale and display of goods and services to the consumer; the use may contain areas for related accessory uses. Examples include uses commonly referred to as – “department stores,” “hardware stores,” “grocery stores,” “boutiques,” “craft shops,” “appliance repair shops,” “video rental stores” and “personal service uses” (defined separately in this code). Excluded are the following principal uses – restaurants; gasoline service stations; motor vehicle sales, service or rental; and outdoor retail sales, display or service.

**REVERSE FRONTAGE / REVERSE ACCESS** – Frontage on an access road constructed at the rear of lots fronting on a major roadway (example: Route 5 and 20).

**RIGHT-OF-WAY (ROW)** (same as the Road Line and not to be confused with the edge of pavement) – The legal boundary of the edges of a public or private road, street, highway, railroad, waterway or similar transportation corridor. Such boundaries are typically controlled and set by government agencies and/or state law. Current ROW lines may supersede an older property survey or deed description. The ROW line is the same as the street line forming the front or side property line of abutting lots. All setbacks shall be measured from this ROW line for lots abutting public streets unless indicated within an Overlay District.

**ROUTE 5 AND 20 CORRIDOR** (as denoted in NYSDOT GIS data) – The entire length of the Route 5 and 20 / Clark Street Road and right-of-way between the City of Auburn of Auburn municipal boundary extending to the northwest corner of Aurelius at the Town Line, encompassing 1,500 feet north and south from the centerline of the road.

**SCHOOL** – A public or private institution providing a curriculum of elementary and secondary academic instruction and includes a kindergarten, elementary, middle and high school. It includes other educational institutions including vocational, trade or boarding schools, colleges or the offering of group instruction within a residence.

**SCREENING** – The process of separating space by means of a screen which may be comprised of metal or plastic mesh.

**SERVICE STATION** – A small, traditional station capable of servicing fewer than five (5) vehicles simultaneously or fueling no more than four vehicles at any one point in time, including ancillary sales of retail goods occupying no more than 200 square feet of floor area.

**SETBACK** – The minimum or maximum (as set forth in each zone district) distance formed by a line connecting two points measured towards the interior of a lot from the front, side and rear property lines forming the boundaries of the lot’s buildable area and required yard areas. For

irregular or curved property lines, the distance shall be a line parallel to the property line and coterminous with any associated street or road right-of-way. (See also “yards, required.”)

**SHOPPING CENTER** – Land planned, improved and managed to accommodate a grouping of two or more commercial uses in one or more buildings designed to share parking, access, signage and other site services; uses commonly included within a shopping center are – retail stores, restaurants, drive-in services, gasoline service stations, indoor recreation and offices. Two or more separately owned commercial units shall not be deemed a shopping center solely by virtue of the fact that they share a common access to adjoining highways and/or parking facilities.

**SHORT-TERM RENTAL** – A rental of any residential unit or accessory building for a period of time less than thirty days.

**SIGN** – Any structure; natural object or part thereof; device; or inscription, which is represented on any land or the outside of any building used to attract attention to any object, product, place, activity, person, institution, organization or business, or which shall display or include any letter, words, numerals, emblems, symbols, models, banners, flags, pennants, insignia, trademarks, devices or representations used as, or which is in the nature of, an announcement, direction, advertisement, attention-arrester, warning or designation of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise, industry or public performance.

**SIGN, FREESTANDING** – A sign which is supported by one or more uprights or braces in or upon the ground.

**SIGN, PROJECTING** – A sign which is affixed to any building wall or structure and extends beyond the building wall or parts thereof more than 15 inches horizontally, and no portion of which projects above the roofline or parapet of a building.

**SIGN, ROOF** – A sign, any portion of which is either situated above the upper edge of any building wall or parapet (except as otherwise provided in the definition of “wall sign” below) or erected or painted on or above the roof covering any portion of a building, including signs supported on the roof or on an independent structural frame located on the side or roof of a penthouse, roof tank, roof shed, elevator housing or other roof structure.

**SIGN, WALL** – A sign which is affixed and parallel to an exterior wall of a building, projecting not more than 15 inches therefrom, and extending not more than three feet above the roofline or parapet of the building; where a sign extends above three feet, it shall be considered a roof sign.

**SITE PLAN REVIEW** – An examination of a proposed land development by the Town Planning Board pursuant to the guidelines and standards Article XVII of this code.

**SKETCH PLAN** – Conceptual maps, renderings, and supportive data that describes the project proposed by the applicant and identifies the existing characteristics of the site. A sketch plan is used for informal review and comment by the Planning Board prior to preliminary site plan review.

**SLAUGHTERHOUSE** – A facility where animals are temporarily held, butchered and prepared for either retail or wholesale market consumption.

**SMALL BUSINESS** – A small commercial enterprise that employs no more than five (5) individuals, requires no more than ten (10) parking spaces or generates no more than an average of 30 vehicle trips per day.

**SOLAR** – Refer to §100-89.

**SPECIAL PERMIT USE** – A land use which is deemed to be generally appropriate within a given zoning district or districts but which may exhibit characteristics or create impacts that are incompatible in some locations within the district and is therefore not permitted by right everywhere within such district. A special permit use is subject to approval by the Planning Board in accordance with the general and specific conditions set forth in this chapter and is allowable only when such conditions are met.

**STOCKYARD** – A yard containing pens and sheds in which livestock is kept and sorted.

**STORAGE** – See “public self-storage facility.”

**STREET** – A public or private right-of-way affording the public vehicular and/or pedestrian access to abutting property. (See “right-of-way.”) Includes streets, roads, avenues, lanes or other traffic ways between right-of-way lines.

**STREET LINE** – A single line formed by the intersection or overlap of the street or road right-of-way boundary and the abutting property line.

**STREET PAVEMENT** – The wearing of exposed surface of the roadway used by vehicular traffic.

**STREET WIDTH** – The width of the right-of-way, measured at right angles to the center line of the street.

**STRUCTURE** – Anything constructed, erected or otherwise situated on the land, whether of a permanent or temporary nature.

**STRUCTURE, ACCESSORY** – A building, structure or mechanical equipment or decorative device attached to or detached from a principal structure, located on the same lot or property and is subordinate and incidental to the use of the principal structure. The term includes improvements such as– mailboxes, garages, storage sheds, waste disposal equipment, antennas, swimming pools, parking/loading areas and signs.

**STRUCTURE, ACCESSORY (UTILITY OR TOWER)** – An accessory facility or structure serving or being used in conjunction with a telecommunications tower, and located on the same lot as the telecommunications tower, including utility or transmission equipment storage sheds for cabinets.



**STRUCTURE, PRINCIPAL** – A building, structure or mechanical equipment designed, built, occupied, or used by the principal land use activity allowed on the lot.

**SUBDIVIDER** – Any person, firm, corporation, partnership or association who shall lay out any subdivision or part thereof as defined herein, either for himself or others.

**SUBDIVISION** – The division of a single parcel of land into two or more blocks, lots, or plots, with or without streets or highways, for sale, lease, any similar conveyance or future development. Parcels may be located along an existing or proposed street, highway, easement or right-of-way for sale or rent as residential lots or residential building plots or as business, commercial or industrial lots or building plots, regardless of whether the lots or plots to be sold or offered for sale, or leased for any period of time, are described by metes and bounds or by reference to a map or survey of the property, or by any other method of description, and regardless of whether the lot or plots are contiguous. A tract of land shall constitute a subdivision upon the sale, rental or offer for sale or lease of the residential lot or residential building plot or of a business, commercial or industrial lot or building plot within any consecutive five-year period and upon such sale, rental or offer for sale or lease. The provisions of § 1116 of the Public Health Law shall apply to all such parcels thereof, including the first four parcels, regardless of whether said parcels have been sold, rented or offered for lease or sale, singly or collectively.

**SURVEYOR** – A person licensed as a land surveyor by the State of New York.

**SWIMMING POOL** – An accessory structure includes artificially constructed pool, tank or receptacle for water, having a water depth at any point greater than twelve inches or more, used or intended to be used for swimming or bathing, and constructed, installed or maintained in or on the ground and meeting all the requirements of the Building Code of New York State.

**TELECOMMUNICATIONS** – The transmission and reception of audio, video, data and other information by wire, radio and other electronic or electromagnetic systems.

**TELECOMMUNICATIONS FACILITY** – Telecommunications towers and associated antennas and accessory structures.

**TELECOMMUNICATIONS TOWER** – A structure designed to support antennas. It includes, without limit, freestanding towers, guyed towers, monopoles and similar structures that employ camouflage technology. It is a structure intended for transmitting and/or receiving radio, television, telephone or microwave communications, but excluding those used either for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar communications.

**TEMPORARY DWELLING** – A dwelling to be used as a temporary living area, which may include structures such as tents, trailers, mobile homes, or recreational vehicles.

**THEATER, INDOOR** – A form of indoor recreation-spectator use comprised of two main permanent building components – a display or performance space (stage, movie screen, podium, etc.) and customer sitting areas for viewing and listening to presentations/performances. It may

include incidental areas for the sale of prepared food and drinks (snack-beverage bar, vending machines), but not designated eating or dining areas.

**TOWER** – Any tower, pole, windmill or other structure, whether attached to a building, guyed or freestanding, designed to be used for and/or for the support of any device for the transmission and/or reception of radio frequency signals, including, but not limited to, broadcast, shortwave, citizen’s band, FM or AM television, microwave and any wind driven devices, whether used for energy production or not.

**TOWN ENGINEER** – The duly designated Engineer of the Town.

**TRACT** – Any body of land, including contiguous parcels of land under one ownership or under common control of any group of persons acting in concert as part of a common scheme or plan.

**TRUCKING TERMINAL** – Land and buildings used as a relay station for the transfer of cargo from one vehicle to another or one party to another. The terminal cannot be used for permanent or long-term storage. The terminal facility may include pickup and drop-off areas, parking areas for trucks, and structures or areas for the servicing of trucks associated with the terminal.

**TOWN OF AURELIUS FEE SCHEDULE** – An official list of all fees that are collected by the Town of Aurelius in connection with this chapter. The fee schedule is established by resolution of the Town Board and is periodically amended by the Town Board by resolution. A copy of the current fee schedule shall be available for public inspection in the Town Clerk’s office.

**UTILITY SUBSTATION** – Land occupied by a building, structure or equipment used for private business or by a private or public utility service regulated by the NYS Public Service Commission or a federal agency in the transmission or collection of energy, water, or sanitary waste and may include communication towers, transmission poles and towers, cellular phone towers or antennas, pump stations, and equipment monitoring buildings. It excludes transmission facilities for public broadcasting use; offices for public benefit; vehicles, equipment and material storage; warehousing and similar functions.

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

**VARIANCE, USE** – The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations. An increase in density or intensity of use shall be deemed to require a use variance if such increase is not allowed by right or by special permit.

**VETERINARY CARE FACILITY** – A business providing for the care, medical treatment and incidental boarding of dogs, cats, similar domestic animals, and/or farm animals.

**WAREHOUSE** – A building primarily designed or used for the storage of materials, such as consumer products, business or administrative records, industrial or agricultural supplies, tools or equipment, and/or personal items. This definition excludes public self-storage facilities, wholesale uses, and truck terminals, separately defined in this section.

**WHOLESALE** – A commercial activity characterized by the bulk storage, distribution and/or sale of merchandise to other retail, manufacturing, construction contracting, institutional or wholesale establishments. This use may include provision for related administrative offices, product showrooms, truck storage and parking areas. It excludes facilities for the storage and distribution of petroleum, natural gas or hazardous chemicals.

**WILDLIFE MANAGEMENT AREAS (WMA's)** – Lands under the control and management of the Department of Environmental Conservation's Division of Fish, Wildlife and Marine Resources. These lands are primarily intended for the preservation of wildlife habitat, the unrestrained propagation of wildlife, the enjoyment of wildlife, and the pursuit of traditional hunting and fishing within a natural and unrestrained environment.

**WIND GENERATOR** – An apparatus used to convert the power of the wind into electricity.

**YARD** – The land area of a lot or property unoccupied by principal structures or principal land use activities. Yards are typically occupied, used or improved with landscaping, signs, parking, pavements and similar minor and incidental structures or activities. Yards or portions of yards may be both regulated and unregulated by this code according to the zone district and/or the supplemental regulations. (See also definitions for “yard, required” and each type of yard.)

**YARD, FRONT** – The required open space extending across the entire width of the lot between the front property line and the required front setback distance measured from the centerline of the highway right-of-way. Permissible intrusions into the front yard may include steps and ramps that are minimally necessary for access, and do not protrude above the finished grade within the highway ROW more than 6.0' in height with the exception of street elements necessary for safety, approved signs and landscaping.

**YARD, REAR** – An open, unoccupied space, except for walks, patios, paved areas, accessory structures and the parking of motor vehicles, on the same lot with the building between the rear building line and the rear lot line and extending the full width of the lot.

**YARD, REQUIRED** – The areas of land within a property and measured inwardly from the property lines specifically regulated by this code as to the type and nature of permitted structures, improvements or activities. The requirements may vary by zone districts, land use or other criteria. The required yards are for multiple purposes, such as perimeter landscape strips, vehicular separation, aesthetics, fire protection, snow storage and drainage. (See also definitions for “setback, yard” and each type of yard.)

**YARD, SIDE** – An open, unoccupied space on the same lot with the building, situated between the side building line and side lot line, and extending between the required front yard and rear yard. It may be occupied by walks, patios, pavement, fencing and eaves, cornices, and similar portions of the principal structure.

**ZONE DISTRICT** – Legal areas established by this code to organize and regulate private land development activity within the Town. A zone district will typically encompass many properties that may be occupied or used by a variety of land uses. The land uses regulated by a district are based upon the specific text included in this code.

**ARTICLE II**  
**ZONING DISTRICTS**

**§ 100-3 Enumeration of Districts.**

For the purpose of this chapter, the Town of Aurelius is hereby divided into the following types of districts:

A	Agricultural Zoning District
AR	Agricultural Residential Zoning District
RH	Rural Hamlet Zoning District
R	Residential Zoning District
RR	River Road Residential Zoning District
C	Commercial Zoning District
I	Industrial Zoning District
C-O	Land Conservation Overlay District
H-O	Highway Overlay
PUD	Planned Unit Developments (including Mobile Home Parks)

**§ 100-4 District Objectives.**

A. A – Agricultural District: To maintain active farming areas as the preferred land use while providing for limited low-density housing development primarily oriented to active agriculture. All development should be planned to maintain as much agricultural land and open space as possible.

B. AR – Agricultural-Rural Residential District: To maintain active farming areas as the preferred land use while providing for low-density housing development that is compatible with farm uses but has long-term potential for public water service. All development should be planned to maintain as much as possible agricultural land and open spaces.

C. RH – Rural Hamlet District: To provide for a cluster of moderate-density neighborhood housing development and neighborhood services in traditional hamlet form while maintaining the generally rural character of the town. (Example: Half Acre crossroads).

D. R – Residential District: To provide for moderate-to-high-density housing development in or adjacent to the City of Auburn, Village of Cayuga and hamlets including the provision of affordable housing. This zoning district will be served by municipal water and sewer or may be located in areas where improvements to water and wastewater infrastructure are most likely to take place over time. Also, to provide for small-scale commercial services necessary for residential area.

E. RR – River Road Residential District: To provide for moderate density housing development in an area of River Road spanning approximately 38 acres which formerly owned by New York State and developed with no adherence to zoning laws that existed at that time. This zoning district will be served by municipal water and sewer or to sites that are likely to be serviced by public water and sewer as proposed in short term (5 years or less). It is intended to

promote the formation of neighborhoods in a moderate density suburban setting as a logical extension to the adjacent residential areas in City of Auburn and Village of Cayuga and to promote logical and efficient infrastructure. This district is intended to avoid inefficient land use patterns and to avoid and minimize impacts to significant environmental features, agriculture and open space. It is furthermore intended to accommodate the continued use of limited groups of existing lots which pre-exist zoning codes and which lack either public water or sewer services.

F. C – Commercial District: To provide for commercial, retail and institutional development within the town which is in close proximity to existing commercial centers and within logical proximity to existing water and wastewater infrastructure.

G. I – Industrial District: To provide for industrial development within the town and to allow this to occur with compatible large-scale commercial operations.

H. C-O – Land Conservation Overlay District: To preserve and protect floodplains and wetlands within the town to ensure against loss of life and property from flooding, to maintain areas as natural stormwater retention basins, to maintain and improve water quality and to maintain natural areas of wildlife and human aesthetic enjoyment.

I. H-O – Highway Overlay District: To preserve the hierarchy of the town’s highway system and to assure compatibility of land uses with the function of adjoining highways.

J. PUD – Planned Unit Developments:

PUD – To provide for unified development of generally large-scale, new and innovative projects where residential. Commercial, industrial or other land uses or any combination thereof may be authorized in a flexible manner so as to achieve the goals of the Town Comprehensive Plan.

#### **§ 100-5 Zoning Map.**

Said districts are shown, defined and bounded on the map attached as Appendix 1 entitled “Town of Aurelius Zoning Map,” dated **October 2023**, and signed by the Town Clerk. The Zoning Map and all explanatory material thereon are hereby made a part of this chapter.

#### **§ 100-6 Interpretation of Boundaries.**

The district boundary lines are generally intended to follow the center lines of streets, the center lines of railroad rights-of-way, existing lot lines or town boundary lines, all as shown on the Zoning Map. For H-O Highway Overlay Districts, minimum setbacks are measured from the centerline of streets. Along divided highways and arterials, setbacks shall be measured from the centerline of the nearest travel lane as indicated in Section 100-27. For the C-O Land Conservation Overlay Districts, the areas included and boundaries shown are those areas and boundaries indicated by the Federal Insurance Administration (FIA), flood hazard areas for floodplains, and by the New York State Department of Environmental Conservation (DEC) for wetlands. For those areas and boundaries not designated by the FIA as special flood hazard areas but shown on the Zoning Map as being in the C-O Land Conservation Overlay District, a

two-hundred-foot corridor centered on that stream shall be defined as the boundary of the C-O Land Conservation Overlay District. Where a district boundary does not follow such lines as described above, its position is shown on said Zoning Map by a specific dimension expressing its distance in feet from a street center line or other boundary as indicated.

**§ 100-7        Lots in More Than One District.**

Where a lot or combination of parcels for which a single development is proposed is located in more than one zoning district, the Zoning Officer shall request the Zoning Board of Appeals to render a determination with respect thereto. The Board shall consider the following factors in making such a determination.

A.     Is there an insignificant area in one district? If so, the standards and regulations for the district which comprises the majority of the lot in question should be applied.

B.     Is one of the districts the C-O Land Conservation Overlay District? If so, the impacts of the proposed use should be analyzed to ensure that no degradation of the resources of this district occurs.

C.     Is one of the districts in the H-O Highway Overlay District? If so, front yard setback and driveway spacing requirements should apply to ensure that highway functionality and highway safety are preserved.

D.     If the proposed plans submitted are not detailed enough to allow complete analysis of the impacts and implications for both zoning districts, the Board may wish to require that the applicant submit detailed plans showing all proposed changes, methods of operation, etc.

**ARTICLE III**

**USE REGULATIONS**

**§ 100-8        Permit Required; Applicability.**

In each of the districts, no parcel of land or building shall be used, and no building shall be erected or altered except for one or more of the uses listed for that district and until application is made and approval is granted for a zoning permit. Any action which constitutes the initiation for a use, such as land clearing, grading or excavation, shall not be commenced unless and until a zoning permit is issued pursuant to this chapter, pursuant to Article 24 of the Clean Water Act (including requirements for providing a Stormwater Pollution Prevention Plan SWPPP) and the State Uniform Fire Prevention and Building Code, as amended. Agricultural use of the land (nonstructural) shall be exempt from the provisions of this chapter; however, all structures are required to obtain a building permit. Building permits are valid for one year, after which they expire unless written application for renewal is made before the lapse of 365 days. Building permits may be renewed for a 6-month period for one-half the cost of a new permit at the current rate. No more than three 180-day extensions shall be permitted for a single project. Building permits shall be sun-setted (e.g., no longer valid) pending for more than 730 days (2 years) without proof of extraordinary circumstances preventing the start or completion of construction.

**§ 100-9 Permitted Principal Uses.**

Uses shown in this category are required to obtain a zoning permit. A zoning permit shall not be issued for more than one principal use on single lot.

**§ 100-10 Site Plan Review Uses.**

A. Uses shown in this category for each district are required first to comply with review by the Planning Board as set forth in Article XVII. All applications for such uses shall be referred by the Code Enforcement Officer (CEO) to the Planning Board. After compliance with Planning Board review per Article XVII, the application shall be returned to the Code Enforcement Officer for Action.

B. If a use is shown in both the site plan review uses and the special permit uses categories, the CEO shall refer such an application first to the Planning Board for its review and action. No final action shall be taken by the Planning Board in such a case until a referral has been made to the Zoning Board of Appeals and a determination has been rendered to the Planning Board prior to site plan approval.

**§ 100-11 Special Permit Uses.**

Uses shown in this category for each district must be approved by the Planning Board as explained in § 100-56. All applications for uses in this category shall be referred by the CEO to the Planning Board. Any use that is not listed as a site plan use or special permit use, is considered by the Planning Board to be prohibited but may be considered by the Planning Board subject to the requirements of a special permit. The proposed use shall be submitted to the Planning Board who will evaluate the proposal within the context of pre-existing uses within the zoning district as proposed.

**ARTICLE IV**

**AGRICULTURAL DISTRICT**

**§ 100-12 Agricultural District (A).**

A. Purpose and Intent.

The Agricultural District is intended to conserve rural portions of the town that are characterized by farms and agricultural operations including residential development that is ancillary to farming and compatible with low density residential development. This district is generally located in land areas where the most productive agricultural soils exist and contains the most viable farmland in the Town. The preferred land use in this district is agriculture and agricultural infrastructure. Properties within this district rely on individual on-site systems for the essential provision of water supply and septic disposal. Therefore, in order to ensure adequate separation of these essential systems; to reduce the amount of nitrates affecting groundwater supplies; to eliminate their potential for contamination and to prevent any undue burden upon the natural environment and landowners, the required minimum residential lot size is the largest within the town (80,000 s.f.) and is “farm based” in nature meaning that the size of

residential structures may require a larger lot size. The large lot is intended to promote separation of farms and unrelated residential uses to protect both activities from the potential adverse effects each has upon the other. While, at the same time, allow for affordable housing within portions of the district that are not necessarily viable for farming. The overall level of development within this district is encouraged to be maintained at a low intensity so that the cumulative effects of development are able to be absorbed within the existing unimproved environmental conditions of the area.

1. Uses permitted by right with building permit as required shall be as follows:

a. Public and private parks and recreation areas.

b. Agriculture, Forestry or Farm as defined in § 100-2 Definitions of this article with the following restrictions:

(1) No retail or commercial activity shall take place other than the storage, processing, and sale of farm products predominantly produced by the farmer.

(2) The storage of manure shall not take place within 100 feet of the nearest lot (property) line.

(3) No farm stock, horses or other animals other than household pets shall be kept in a building, any part of which is closer to the nearest residential lot line than 50 feet. Manure, garbage, or refuse shall not be stored within 50 feet of a property line and must be a minimum of 150' feet from any potable water supply approved by the Cayuga County Health Department. No garbage, refuse, or practice not endorsed by the New York State Department of Agriculture and Markets shall be used for feed other than that which is actually produced on the farm property or properties.

(4) Farms are exempt from the requirements of obtaining zoning or site plan approvals in agricultural zoning districts.

c. Single family dwelling on a permanent foundation and its accessory uses and structures.

2. Uses permitted upon site plan review (See Article XVII) are as follows:

a. Two-family dwellings.

b. Place of Worship.

c. Utility Substation, Telecommunications Facility, or Wind Generators (i.e., Tower Facilities).

d. Public School.

e. Farm Stands greater than 3100 square feet of retail floor area.



- f. Natural Production Uses (see Definitions).
  - g. Home Occupations.
  - h. Regulation Golf Course.
  - i. Hospital.
  - j. Gun Clubs and Private Recreation Facilities.
  - k. Outdoor Wood-Fired Boilers<sup>1</sup>.
3. Uses permitted upon issuance of special permit are as follows (See § 100-56):
- a. Day-Care Center excluding such facilities described in Social Services Law (See § 390-12 (b) of the Social Services Law).
  - b. Private school (nursery school through college).
  - c. Parks, Playgrounds and other similar recreational facilities which are privately operated but not for profit.
  - d. Regulation Golf Courses.
  - e. Country Store of 3100 square feet or less.
  - f. Private Recreational Campsites.
  - g. Short-Term Rental.
  - h. Farm supply and/or equipment sales or service.
  - i. Veterinarian.
  - j. Kennel.
  - k. Small Business (see definitions).
  - l. Commercial Excavation.
  - m. Landfill.
  - n. Temporary Dwellings.
  - o. Outdoor Wood-Fired Boilers.

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<sup>1</sup> Outdoor Wood-Fired Boilers (OWBs) are only permitted in the Agricultural (A) zoning district.

p. Farm waste energy system.

4. Any uses not expressly stated as permitted by right, permitted subject to site plan review, or permitted upon the issuance of a special permit are not permitted in this zoning district.

5. Supplemental regulations shall apply as follows:

- a. Height, yard and corner lot exceptions.
- b. Compliance with Highway and Conservation Overlay Districts.
- c. Off-street parking and loading.
- d. Signs.
- e. Screening and landscaping.
- f. Accessory uses and structures.

**§ 100-13 Dimensional Requirements.**

A. Farm, Forestry or Wildlife Management Areas.

Area, minimum (square feet) 5.0 Acres<sup>2</sup>

B. Residential Structures and Uses.

1. Lots shall meet the following form-based lot size requirements:

<u>Regulation</u>	<u>One-family</u>	<u>Two-family</u>
Area, minimum (square feet)	80,000 s.f.	80,000
Width, minimum (feet)	150	200
Lot Coverage (maximum %)	10%	10%

2. Principal structure and accessory structures shall meet the following requirements:

<u>Regulation</u>	<u>One-family</u>	<u>Two-family</u>
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**Front yard setback** 50 50

\*(Measured from the road ROW line unless the highway overlay applies; see § 100-27)

**Side yard setback**

<sup>2</sup> A farm may be less than 5 acres if it is situated adjacent to an existing agricultural parcel or is deemed to be economically viable agriculture by the New York State Department of Agriculture and Markets.

One Side (feet)	25	25
Total both sides (feet)	50	50
<b>Rear yard setback</b>		
Principal structure (feet)	35	35
Accessory Structure (feet)	20	20
Maximum Height (feet)	35	35

C. Nonresidential Uses and Structures.

1. Lots shall meet the following requirements:

- a. Area, minimum: 80,000 square feet
- b. Width, minimum: 200 feet
- c. Coverage, maximum: 10 %

2. Principal structure and accessory structures shall meet the following requirements:

- a. Front yard setback: 75 feet  
\*(Measured from the road ROW line unless the highway overlay applies; see § 100-27.)
- b. Side yard setback:
  - (1) One side: 15 feet
  - (2) Total of both Sides: 50 feet
- c. Rear yard setback for principal structure: 35 feet
- d. Rear yard setback for accessory structures: 15 feet
- e. Maximum Height: 50 feet

**ARTICLE V**

**AGRICULTURAL RESIDENTIAL DISTRICT**

**§ 100-14 Agricultural-Residential District (AR).**

A. Purpose and Intent.

The AR District is intended for undeveloped portions of the town in areas where open space, both for the purposes of farming and to maintain the rural character of the community is important. The district is intended to accommodate the continued use of existing

farms in the portion of Town that contains several environmental constraints while allowing for moderate density residential development in appropriate locations (e.g., within areas that generally lack environmental constraints). Residential land use within this district will rely on individual on-site septic systems for wastewater disposal within the estimated planning horizon of 20 years (year 2027) but have potential for public water service within a 20-30-year period. Therefore, residential lots in this district are larger than the R district to ensure that wastewater effluent does not burden local groundwater supplies. A secondary rationale is to discourage a premature and illogical extension of public sewer infrastructure.

1. Uses permitted by right with building permit as required shall be as follows:

a. Single family dwelling on a permanent foundation and its accessory uses and structures.

2. Farm with the following restrictions:

a. No retail or commercial activity shall take place other than the storage, processing, and sale of farm products predominantly produced by the local farmer.

b. The storage of manure shall not take place within 50 feet of the nearest lot line.

c. No farm stock, horses, or other animals other than household pets shall be kept in a building, any part of which is closer to the nearest lot line than 50 feet. No garbage or refuse shall be used for feed other than that which is actually produced on the farm property or properties.

d. Farms are exempt from the requirements of Sections 3 and 4 below (e.g., exempt from Site Plan or Special Permit requirements).

3. The following uses are permitted upon Site Plan Review (see Article XVII)

a. Two-family dwellings.

b. Place of Worship.

c. Utility Substation, Telecommunications Facility or Wind Generators.

d. Public School.

e. Farm Stands less than 3100 square feet of retail floor area.

f. Home Occupations.

g. Regulation Golf Course.

- h. Hospital.
  - i. Home Occupation.
  - j. Veterinary, Farm Supply and/or Equipment Sales & Service.
4. Uses permitted upon issuance of special permit are as follows (See § 100-56):
- a. Child day-care facility [excluding such facilities described in Social Services Law (See § 390-12 (b) of the Social Services Law)].
  - b. Private school (nursery school through college).
  - c. Parks, playgrounds and other similar recreational facilities which are privately operated but not for profit.
  - d. Regulation golf courses.
  - e. Country store of 3000 square feet or less.
  - f. Short-Term Rental.
  - g. Veterinarian.
  - h. Farm waste energy system.
5. Any uses not expressly stated as permitted by right, permitted subject to site plan review, or permitted upon the issuance of a special permit are not permitted in this zoning district.
6. Supplemental regulations shall apply as follows:
- a. Height, yard and corner lot exceptions.
  - b. Compliance with Highway and Conservation Overlay Districts.
  - c. Off-street parking and loading.
  - d. Signs.
  - e. Screening and landscaping.
  - f. Accessory uses and structures.
  - g. Mobile homes are prohibited (See Definition).

**§ 100-15 Dimensional Requirements.**

A. Farm, Forestry or Wildlife Management Areas.

Area, minimum (square feet) 5.0 Acres

B. Residential Structures and Uses.

1. Lots shall meet the following requirements:

<u>Regulation</u>	<u>One-family</u>	<u>Two-family</u>
Area, minimum (square feet)	40,000	40,000
Width, minimum (feet)	150	150
Lot Coverage (maximum %)	20%	25%

2. Principal structure and accessory structures shall meet the following requirements:

<u>Regulation</u>	<u>One-family</u>	<u>Two-family</u>
<b>Front yard setback</b>	35	45
*(Measured from the road ROW line unless the highway overlay applies; see § 100-27.)		
<b>Side yard setback</b>		
One Side (feet)	25	25
Total both sides (feet)	50	50
<b>Rear yard setback</b>		
Principal structure (feet)	35	35
Accessory Structure (feet)	15	15
Maximum Height (feet)	30	35

C. Nonresidential Uses and Structures.

1. Lots shall meet the following requirements:

- a. Area, minimum: 80,000 square feet
- b. Width, minimum: 300 feet
- c. Coverage, (maximum %): 0 %

2. Principal structure and accessory structures shall meet the following requirements:

- a. Front yard setback: 75 feet  
\*(Measured from the road ROW line unless the highway overlay applies; see § 100-27.)
- b. Side yard setback:
  - (1) One side: 30 feet
  - (2) Total of both sides: 50 feet
- c. Rear yard setback for principal structure: 50 feet
- d. Rear yard setback for accessory structures: 15 feet
- e. Maximum Height: 50 feet

## ARTICLE VI

### RURAL HAMLET DISTRICT

#### § 100-16 Rural Hamlet District (RH).

##### A. Purpose and Intent.

The Rural Hamlet Zoning District is intended to serve residents within a hamlet or similarly developed setting with limited “neighborhood style” retail, personal or service-oriented services. This district may include a mix of the aforementioned services with higher density residential development within an existing or planned water district. Small commercial businesses less than 2500 square feet in Gross Leaseable Floor Area (GLA) may be in proximity to residential uses and large-scale businesses of traffic intensive uses will be discouraged. The interspersing of residential uses in “Traditional Neighborhood Design” is encouraged, including first floor commercial with second story residential or professional office space, to enhance or maintain a balanced historic neighborhood character.

- 1. Uses permitted by right with building permit as required shall be as follows:
  - a. Single family dwelling on a permanent foundation and its accessory uses and structures.
- 2. Uses permitted upon Site Plan Review are as follows: (See Article XVII):
  - a. Retail or Personal services.
  - b. Office.
  - c. Restaurant less than 2500 square feet.
  - d. Place of Worship.

- e. Two-family dwelling.
  - f. Multi-family dwelling.
  - g. Service Stations serving no more than four vehicles simultaneously.
  - h. Convenience store of 2500 square feet or less.
  - i. Second or third story apartment.
  - j. Neighborhood oriented commercial service.
  - k. Home Occupation.
3. Uses permitted upon issuance of a special permit (See § 100-56):
- a. Motor vehicle service station with no gas sales.
  - b. Multi-family dwelling.
  - c. Child day-care facility excluding such facilities described in Social Services Law (See § 390-12 (b) of the Social Services Law).
  - d. Parks, playgrounds and other similar recreational facilities which are privately operated but not for profit.
  - e. Private school (nursery school through college).
  - f. Short-Term Rental.
4. Prohibited uses are as follows:
- a. Convenience stores greater than 2500 square feet (GLA).
  - b. Gasoline service stations that service more than four vehicles simultaneously.
  - c. Drive-in or Drive through services.
  - d. Outdoor sales display or operations.
  - e. Mobile Homes (See Definition).
5. Any uses not expressly stated as permitted by right, permitted by subject to site plan review, or permitted upon the issuance of a special permit are not permitted in this zoning district.
6. Supplemental regulations shall apply as follows:



- a. Height, yard, and corner lot exceptions.
- b. Compliance with Highway and Conservation Overlay Districts.
- c. Off-street parking and loading.
- d. Signs.
- e. Screening and landscaping.
- f. Accessory uses and structures.

**§ 100-17 Dimensional Requirements.**

A. Residential Structures and Uses.

1. Lots shall meet the following requirements:

<u>Regulation</u>	<u>One-family</u>	<u>Two-family</u>	<u>Multi-family</u>
Area, minimum (square feet)	20,000	20,000	20,000 plus
with public water and sewer	12,500	12,500	3,000 s.f per d.u. In excess of 2, but no more than 4 d.u.
Width, minimum (feet)	100	100	100
Lot Coverage (maximum %)	30%	25%	50%

2. Principal structure and accessory structures shall meet the following requirements:

<u>Regulation</u>	<u>One-family</u>	<u>Two-family</u>	<u>Multi-family</u>
<b>Front yard setback (feet)</b>	30	30	45
*(Measured from the road ROW line unless the highway overlay applies; see § 100-27.)			
<b>Side yard setback</b>			
One Side (feet)	15	15	15
Total both sides (feet)	35	35	35
<b>Rear yard setback</b>			
Principal structure (feet)	35	35	35
Accessory Structure (feet)	10	10	10



infrastructure. This district is intended to avoid inefficient land use patterns and to avoid and minimize impacts to significant environmental features, agriculture and open space. It is furthermore intended to accommodate the continued use of limited groups of existing lots which pre-exist zoning codes and which lack either public water or sewer services.

1. Uses permitted by right with building permit as required shall be as follows:

a. Single family dwelling on a permanent foundation and its accessory uses and structures.

2. The following uses are permitted upon Site Plan Review (see Article XVII):

a. Two-family dwellings.

b. Multi-family dwellings.

c. Place of Worship.

d. Utility Substation, Telecommunications Facility or Wind Generators.

e. Public School.

f. Home Occupation.

3. Uses permitted upon issuance of special permit are as follows (See § 100-56):

a. Child day-care facility [excluding such facilities described in Social Services Law (See § 390-12 (b) of the Social Services Law)].

b. Private school (nursery school through college).

c. Parks, playgrounds and other similar recreational facilities which are privately operated but not for profit.

4. Any uses not expressly stated as permitted by right, permitted subject to site plan review, or permitted upon the issuance of a special permit are not permitted in this zoning district.

5. Supplemental regulations shall apply as follows:

a. Height, yard and corner lot exceptions.

b. Compliance with Highway and Conservation Overlay Districts.

c. Off-street parking and loading.

- d. Signs.
- e. Screening and landscaping.
- f. Accessory uses and structures.
- g. Mobile Homes are prohibited (See Definition).

**§ 100-19 Dimensional Requirements (R).**

**A. Residential Structures and Uses.**

1. Lots that are not served by public water and sewer that are located within this district shall comply with the dimensional requirements of the Agricultural – Residential zoning district and shall refer to ARTICLE V.

2. Lots served by public water and sewer infrastructure shall meet the following requirements:

<u>Regulation</u>	<u>One-family</u>	<u>Two-family</u>	<u>Multi-family</u>
Area, minimum (square feet)	20,000	20,000	25,000 s.f. up to 4 d.u.
with public water and sewer	12,500	12,500	an additional 3000 s.f per d.u.
Width, minimum (feet)	150	100	100
Lot Coverage (maximum %)	30%	30%	50%

3. Principal structure and accessory structures shall meet the following requirements:

<u>Regulation</u>	<u>One-family</u>	<u>Two-family</u>	<u>Multi-family</u>
<b>Front yard setback</b>	35	35	50
*(Measured from the road ROW line unless the highway overlay applies; see § 100-27.)			
<b>Side yard setback</b>			
One Side (feet)	15	15	15
Total both sides (feet)	30	30	30
<b>Rear yard setback</b>			
Principal structure (feet)	35	35	35
Accessory Structure (feet)	15	15	15
Maximum Height (feet)	35	35	40

B. Nonresidential Uses and Structures.

1. Lots shall meet the following requirements:
  - a. Area, minimum: 40,000 square feet
  - b. Width, minimum: 200 feet
  - c. Coverage, (maximum %): 30 %
2. Principal structure and accessory structures shall meet the following requirements:
  - a. Front yard setback: 75 feet  
\*(Measured from the road ROW line unless the highway overlay applies; see § 100-27.)
  - b. Side yard setback:
    - (1) One side: 15 feet
    - (2) Total of both sides: 35 feet
  - c. Rear yard setback for principal structure: 35 feet
  - d. Rear yard setback for accessory structures: 15 feet
  - e. Maximum Height: 50 feet

**ARTICLE VIII**

**RIVER ROAD RESIDENTIAL DISTRICT**

**§ 100-20 River Road Residential District (RR).**

A. Purpose and Intent.

This new zoning district for River Road covers a parcel of approximately 38 acres and extends from the New York State Look to the Montezuma Town border at the North end of River Road. This parcel was originally owned by New York State and developed with no adherence to zoning laws that existed at that time. There are currently 62 parcels of varying sizes and dimensions. The parcels are bisected by River Road and River Road is a Town road. All parcels in this zoning district are served by public sewer and water. Most of the parcels have already been developed.

Certain structures on River Road encroach on neighboring parcels of the Town of Aurelius ROW. The owner will be allowed to perform basic maintenance and upkeep on the portion of the structure that is encroaching. You will not become allowed to modify that portion

of the structure in any way. Should it become necessary to tear down the encroaching portion or the entire structure, you will not be allowed to rebuild on the existing footprint.

It is to be applied to areas currently served with public water and sewer services or to sites that are likely to be serviced by public water and sewer as proposed in short term (5 years or less). Provision of infrastructure in this district may be facilitated by a private developer who is willing to pay for infrastructure improvements that would benefit his/her project by the resulting increase in development density. Open space protection and/or recreation may be provided on an individual site or neighborhood basis (i.e., neighborhood open space). It is intended to promote the formation of neighborhoods in a moderate density suburban setting as a logical extension to the adjacent residential areas in City of Auburn and Village of Cayuga and to promote logical and efficient infrastructure. This district is intended to avoid inefficient land use patterns and to avoid and minimize impacts to significant environmental features, agriculture and open space. It is furthermore intended to accommodate the continued use of limited groups of existing lots which pre-exist zoning codes and which lack either public water or sewer services.

1. Uses permitted by right with building permit as required shall be as follows:

a. Single family dwelling on a permanent foundation and its accessory uses and structures.

b. All construction on River Road will require written approval from the DEC and the Army Corps of Engineers. Letters of approval from those agencies must be submitted to the Town prior to site plan approval and/or getting a building permit.

c. Any docks in the canal will require written approval from the NYS Canal Corp.

d. All construction (houses, garages, sheds, etc.) will be done according to Flood Plain regulation and the NYS Building Code.

2. Uses permitted upon issuance of special permit are as follows (See § 100-56):

a. Day-Care Center [excluding such facilities as described in Social Services Law (See § 390-12 (b) of the Social Services Law)].

3. Any uses not expressly stated as permitted by right, permitted subject to site plan review, or permitted upon the issuance of a special permit are not permitted in this zoning district.

4. Supplemental regulations shall apply as follows:

a. Height, yard and corner lot exceptions.

b. Compliance with Highway and Conservation Overlay Districts.

- c. Off-street parking and loading.
- d. Signs.
- e. Screening and landscaping.
- f. Accessory uses and structures.
- g. Mobile homes are prohibited (See Definition).
- h. All residences must be hooked up to the sewer and water.
- i. Dimensional requirements.
- j. Residential structures and uses.

**§ 100-21 Dimensional Requirements.**

**A. Residential Structures and Uses.**

1. Lots served by public water and sewer infrastructure shall meet the following requirements:

<u>Regulation</u>	<u>One-family</u>
Area, minimum (square feet) with public water and sewer	20,000 8,000
Width, minimum (feet)	50
Lot Coverage (maximum %)	30%

2. Principal structure and accessory structures shall meet the following requirements:

<u>Regulation</u>	<u>*East Side</u>	<u>West Side</u>
<b>Front yard setback (feet)</b>	15	15
*(Measured from the road ROW line unless the highway overlay applies; see § 100-27.)		
<b>Side yard setback</b>		
One Side (feet)	10	10
Total both sides (feet)	20	20
<b>Rear yard setback</b>		
Principal structure (feet)	N/A	20
Accessory Structure (feet)	10	20
Maximum Height (feet)	35	35

3. It is the concept and intent of this zoning district that no residential structures will be built on the East side of River Road.

B. Nonresidential Uses and Structures.

1. Nonresidential use of this property will not be permitted.

**ARTICLE IX**

**GENERAL COMMERCIAL DISTRICT**

**§ 100-22 General Commercial (C).**

A. Purpose and Intent.

This district is intended to provide a full range of wholesale, retail, personal, professional and office services in a well-designed setting. It is primarily to serve as a commercial extension of the City of Auburn and the Cayuga County IDA property and is intended to serve residents throughout the Town. This area will be served by existing public water and sewer infrastructure or will be required to install the infrastructure necessary to serve proposed operations. Uses in this area will rely on adequate access to the state highway system in specified locations via an internal system of local roads and private driveways to accommodate employee and business-oriented trips. The district is intended to be situated along State Route 5 and 20 on sites that provide sufficient area for buffering from adjoining residential or agricultural land uses.

1. Uses permitted by right with building permit as required shall be as follows:

a. Changes in occupancy in instances where there is not change of use.

b. Permitted land uses that pre-exist this zoning law.

2. Uses permitted upon Site Plan Review are as follows: (See Article XVII)

a. Wholesale, retail or personal service use.

b. Automobile sales, service or repair.

c. Office.

d. Restaurant.

e. Mortuary.

f. Hospital.

g. Nursing Home.



- h. Place of Worship.
  - i. Utility Substation.
  - j. Multi-family dwelling units associated with Site Plan Review.
  - k. Freestanding dwelling units.
  - l. Day-Care Center.
3. Uses permitted upon issuance of a special permit (See § 100-56):
- a. Shopping Center.
  - b. Drive-in Service.
  - c. Hotel / Motel.
  - d. Private or Indoor Recreation.
  - e. Veterinary treatment facility.
  - f. Dwelling units associated with special permit uses.
  - g. Parks, playgrounds and other similar recreational facilities which are privately operated but not for profit.
4. Prohibited uses are as follows:
- a. Outdoor sales, display or operation for a period of greater than 7 days more than 4 times annually.
5. Any uses not expressly stated as permitted by right, permitted subject to site plan review, or permitted upon the issuance of a special permit are not permitted in this zoning district.
6. Supplemental regulations shall apply as follows:
- a. Height, yard and corner lot exceptions.
  - b. Compliance with Highway and Conservation Overlay Districts.
  - c. Off-street parking and loading.
  - d. Signs.
  - e. Screening and landscaping.
  - f. Accessory uses and structures.

**§ 100-23 Dimensional Requirements.**

A. For Structures and Uses:

1. Lots shall meet the following requirements:

Area, minimum (square feet)	20,000
Width, minimum (feet)	100
Lot Coverage (maximum %)	60%

2. Principal structure and accessory structures shall meet the following requirements:

Regulation

**Front yard setback**

75

\*(Measured from the road ROW line unless the highway overlay applies; see § 100-27.)

**Side yard setback**

- |                         |         |
|-------------------------|---------|
| (1) One side:           | 20 feet |
| (2) Total of Both Sides | 45 feet |

**Rear yard setback**

- |                            |    |
|----------------------------|----|
| Principal structure (feet) | 40 |
| Accessory Structure (feet) | 20 |

Maximum Height (feet) 40

**ARTICLE X**

**INDUSTRIAL DISTRICT**

**§ 100-24 Industrial District (I).**

A. Purpose and Intent.

This district is intended for commercial and manufacturing uses that require good highway access and large site areas for buildings, structures outdoor storage, display or operation. This district will be served with existing water and sewer infrastructure. This district is also intended for uses that focus on the movement, storage or processing of raw materials or semi-finished goods to major transportation routes. Retail or non-retail uses that are not reliant upon close proximity to residential areas and which are not generally compatible to residential uses are encouraged in this district. Good access to major transportation routes and separation from and buffering to residential is to be encouraged.

1. Uses permitted upon site plan review (See Article XVII) are as follows:
  - a. Retail or personal service accessory to a wholesale or industrial establishment.
  - b. Wholesale warehouse establishment.
  - c. Trucking and transportation terminals.
2. Uses permitted upon issuance of a special permit (See § 100-56):
  - a. All uses with the exception of those listed in Subsection 3 below.
  - b. Adult Entertainment as set forth in §100-24 A (2)(c), (d) and (e) below located more than 1000.0 linear feet from a school, Place of Worship, residence, day care center, park/playground, library, public building or municipal facility (including Emergency Services).
  - c. No more than one Adult Entertainment use shall be allowed or permitted on any one lot.
  - d. No Adult Entertainment use shall be allowed or permitted on a lot that is closer than one thousand feet (1000.0') from; a) any other zoning district; b) any Place of Worship, community center, funeral home, library, educational facility, nursery school, day care center, hospital, public park, playground, recreational area or field; c) any public or municipal buildings; d) any hotels or motels.
  - e. All distances set forth herein shall be measure from lot line to lot line containing the proposed Adult Entertainment use and any use listed in §100-24 A (2) (d).
3. Prohibited uses are as follows:
  - a. Residential uses except for on-site residency of security or security personnel.
  - b. The operation of stockyards, slaughterhouses and rendering plants.
  - c. Production involving raw material of chemicals, cement, paint products, rubber, soaps, starch and the by-products of coal, coke, petroleum and natural gas.
  - d. The reduction, refining, smelting and alloying of metal or metal ores; the distillation of wood or bones; or the reduction and processing of wood pulp and fiber.
  - e. The storage of radioactive material.
4. Any uses not expressly stated as permitted by right, permitted subject to site plan review, or permitted upon the issuance of a special permit are not permitted in this zoning district.

5. Supplemental regulations shall apply as follows:
  - a. Height, yard and corner lot exceptions.
  - b. Compliance with Highway and Conservation Overlay Districts.
  - c. Off-street parking and loading.
  - d. Signs.
  - e. Screening and landscaping.
  - f. Accessory uses and structures.

**§ 100-25 Dimensional Requirements.**

A. For Structures and Uses.

1. Lots shall meet the following requirements:

Area, minimum (square feet)	40,000
Width, minimum (feet)	100
Lot Coverage (maximum %)	60%

2. Principal structure and accessory structures shall meet the following requirements:

Regulation

**Front yard setback** 150  
 \*(Measured from the road ROW line unless the highway overlay applies; see § 100-27.)

**Side yard setback**

(1) One side:	30 feet
(2) Total of Both sides	50 feet

**Rear yard setback**

Principal structure (feet)	50
Accessory Structure (feet)	25
Maximum Height (feet)	45

**§ 100-26 Performance Standards.**

A. Fire and Explosion Hazards. There shall be no activities or storage involving inflammable and explosive materials without adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire suppression equipment and devices. There shall be no burning of waste materials. There shall be no storage of crude oil or any of its volatile products or other highly flammable liquids in above ground storage except in accordance with all New York State regulations. All such tanks having a capacity of 10,000 gallons or more shall be properly diked with dikes having a capacity equal to one and one-half (1½) times the capacity of the tanks or tanks surrounded.

B. Radioactivity. There shall be no activities which emit dangerous radioactive emissions that would adversely affect the health, welfare, or safety of individuals and impact the operation of any equipment.

C. Water and Air Pollution. There shall be no emission into the atmosphere of fly ash, dust, fumes, vapors gases and other forms of air pollution which can cause damage to life or property or discharge into any sewage-disposal system, or stream, or into the ground of any materials of such a nature or temperature as can contaminate any watercourse, or supply, or can cause any dangerous or unhealthy condition except upon approval of applicable state and or local agencies having jurisdiction to regulate such air or water pollution.

D. Heat, Cold Movement of Air or Dampness. There shall be no activities that produce any material effect on the temperature, motion or humidity of the atmosphere at the lot line or beyond.

**ARTICLE XI**

**HIGHWAY OVERLAY DISTRICT**

**§ 100-27 Major Highway Overlay Controls (H-O).**

A. Purpose and Intent.

The purpose of this section is to accommodate and promote a pattern of land development that maintains the functional capacity of the highway system and maximizes highway safety and efficiency to accommodate the future land use needs of the community. The intent is to direct land use adjacent to major highways in the town according to the volume and speed of traffic that is appropriate to the adjoining land use. This section intends to balance the use and design of abutting properties with highway function to protect both from the adverse effects of each other.

B. Applicability.

1. These regulations shall apply to all lots abutting the highways listed below.

2. These regulations shall be in addition to the lot, yard, and setback requirements of the underlying zone district regulations.

3. In the event that these additional requirements conflict with other sections of this chapter, then the greater of the more restrictive requirements shall apply.

4. Setback from streets designated as Arterials or Collectors shall be measured from the centerline of the road right of way.

C. Exceptions.

1. New lots may be established for one- and two-family dwellings with less lot width than required by this section if the proposed lot or lots provide vehicular access from a driveway, local street, or non-designated collector, so long as no access is provided to the designated collector or arterial.

2. This section shall not apply to any lot within the Hamlet of Aurelius Center since those areas in specific zoning districts are characterized by older development patterns which provide compliance with these patterns.

3. In the event that a future Planned Unit Development (PUD) is formed within the Town, streets designated as a collector or arterial in this section shall supersede the setback requirements specific to the district in order to preserve the functional hierarchy of the pre-existing highway systems.

D. Arterial Highways.

1. The following highways are hereby designated as arterials:

a. New York State Route 5 and 20 (Clark Street Road).

b. New York State Route 326.

c. New York State Route 90

2. Principal and accessory structures; dimensional requirements:

a. Minimum setback shall be 120.0 feet from the centerline of the highway right-of-way (or 120.0 feet from the center of the lane width along the portion of the highway between Clark Street Road and the City line, see subsection b. below).

b. For a divided arterial highway containing a painted or landscaped median, the minimum setback shall be measured from the center of the traffic bound lane(s) (east bound or west bound) nearest to the front property line.

c. Minimum lot width shall be 200.0 feet for common lots and 250.0 feet for corner lots measured at the lot line.

d. Driveway access shall not be located within 200.0 feet of the centerlines of intersecting roads.

e. Minimum depth of a lot shall increase proportional to lot width.

f. Marginal Access, cross access and reverse access drives will be encouraged for industrial, institutional, commercial, retail and multifamily residential development along arterial highways.

E. Collector Roads.

1. The following highways are hereby designated as collectors:

a. Genesee Street Road.

b. Turnpike Road.

c. Half Acre Road.

2. Principal and accessory structures; dimensional requirements:

a. Minimum setback shall be 90 feet from the centerline of the highway right-of-way.

b. Minimum lot width shall be 150 feet for common lots and 200 feet for corner lots measured from the centerline of the street.

c. Driveway access shall not be located within 150.0' of the centerlines of intersecting roads.

d. Minimum depth of a lot shall increase proportional to lot width.

e. Marginal Access, cross access and reverse access drives shall be encouraged for Industrial, Commercial and multifamily residential development along collector roads.

## ARTICLE XII

### CONSERVATION OVERLAY DISTRICT

#### § 100-28 Land Conservation Overlay District (C-O).

A. Purpose. The purpose of this overlay district is to delineate areas of the town which are characterized by important natural features, including but not limited to floodplains, wetlands, stream corridors and unique aesthetic areas.

B. General Purpose. The Land Conservation District is an overlay. The uses in the underlying districts are permitted subject to Planning Board review. The review process for this district has two parts. The first step is a determination of the presence and importance of natural features on the proposed development site. If no important natural features are present [(i.e., the site is outside the one-hundred-year floodplain (or does not impact an important natural feature))], detailed review by the Planning Board is not required. If a project falls within a conservation overlay and a sensitive natural condition exists, further review is required.

C. Determination of Presence and Significance.

1. For proposed actions in the Land Conservation Overlay District, additional review and submission requirements may be deemed necessary by the Planning Board. Upon referral of a proposed action in the Land Conservation Overlay District, the Planning Board shall first make a determination of the presence and importance of natural features on the development site. To make this determination, the Planning Board may refer to the Comprehensive Plan, Land Development Plan, HUD, FIA, Flood Insurance Maps, DEC wetland maps, Corps of Engineers' data on flood elevations, cross sections, etc. The Planning Board may consult with other review and permit granting agencies and professionals to make this determination.

2. The natural features to be considered under this section shall include, but not be limited to, flood plains, wetlands, stream corridors, ravines, rock outcroppings, overlooks unique settings and areas immediately adjacent to such features.

a. Proposed actions which are determined to be in an identified floodplain shall be subject to the provisions of Subsection D of this section.

b. Proposed actions which are determined to be in or adjacent to other important natural features may be required by the Planning Board to comply with § Article XVII of this code.

c. Proposed actions which are determined to be in or adjacent to a wetland area should be referred to the regional office of the Department of Environmental Conservation. The Planning Board should discourage major filing and construction proposals in and adjacent to wetlands.

D. Procedures for Actions in Floodplain Areas. All activities undertaken in areas designated as a flood hazard area by the Federal Flood Insurance Program on maps prepared by the Federal Emergency management Agency, including any future revisions to said maps shall comply with applicable regulations adopted by the Town of Aurelius as a separate Flood Prevention Law.



## ARTICLE XIII

### PLANNED UNIT DEVELOPMENTS

#### § 100-29 Statement of Purpose and Authority.

A. Legislative Intent. A Planned Unit Development (“PUD”) provides flexibility and encourages a variety of land uses and innovative design techniques that otherwise would be restricted by standard use and area regulations contained within the Town of Aurelius Zoning Law. A PUD may be placed anywhere in the Town at the discretion of the Town Board.

B. Legislative Purpose. The Town of Aurelius, Cayuga County, New York hereby finds and determines that:

1. When coordinated with the comprehensive plan, a PUD can be an effective tool to encourage development in ways that support the community goals and priorities outlined in the Town of Aurelius Community Comprehensive Plan.

2. This section provides a process to allow for the approval of a beneficial development plan that would not otherwise be possible due to existing zoning laws that regulate permissible uses and bulk requirements. A PUD provides flexibility in the regulation of land use development in order to:

a. Encourage innovation in land use variety and design, in the layout and type of new structures and in their integration with existing structures;

b. Enhance efficiency in the use of land, natural resources, energy, community services and utilities;

c. Encourage open space preservation and protection of natural resources, historic sites and structures;

d. Facilitate the construction of housing and improved residential environments;

e. Enhance the Town’s ability to promote business and employment opportunities;

f. Preserve the safety and efficiency of the State, County and Town transportation system within the Town of Aurelius;

g. Provide for logical and orderly extensions of water, sewer and utility infrastructure; and

h. Provide for a unified and logical pattern of development to land areas determined to be appropriate for growth as outlined in the Town of Aurelius Community Comprehensive Plan.

C. Authority. In addition to any other powers and authority to plan and regulate by zoning, the Town of Aurelius hereby enacts requirements for the review of applications to establish a Planned Unit Development District and the establishment and simultaneous mapping of Planned Unit Development Districts pursuant to the provisions of this local law.

**§ 100-30 Definitions.**

A. “Planned Unit Development” (“PUD”) means a site upon which residential, commercial, industrial or other land uses or any combination thereof may be authorized in a flexible manner so as to achieve the goals of the Town Comprehensive Plan.

B. “Planned Unit Development District” (“PUD District”) means the location where a District Plan has been approved by the Town Board.

C. “District Plan” means a proposal for a PUD prepared in a manner prescribed by local regulation showing general layout of the proposed project. The plan will establish the allowable uses and design guidelines within the PUD. The District Plan will establish bulk requirements for the district, including, lot sizes, setbacks, height limits, buffers, screening, open space areas, lighting, signage, landscaping, parking and loading, traffic circulation, protection of natural resources, public or private amenities and such other elements as may be required by local regulation.

D. “District Plan Approval” means the approval with conditions, if any, of the proposed PUD and the simultaneous amendment of the local zoning law or ordinance by the legislative body to create and map a Planned Unit Development District within a land area designated by the Town Board.

E. “PUD Site Plan” means a plan prepared pursuant to Article XVII of the Town of Aurelius Zoning Law showing information as is required by local regulation.

F. “PUD Site Plan Approval” means the signing of a final plan by a duly authorized member of the Town Planning Board pursuant to a resolution granting final approval to the plan or after conditions, if any, specified in said resolution granting conditional approval of the plan are completed. Such final approval qualifies the plan for filing in the office of the clerk as provided herein. Final approval shall be decided by the Town Planning Board.

**§ 100-31 Overview of Process.**

A. An applicant that seeks to establish a PUD District Plan in the Town must submit a PUD District Plan Application to the Town Board. Only persons who can demonstrate legal control over the parcel(s) covered by the proposed PUD district, or their authorized representative(s), may file a PUD District Application. A contract-vendee for a parcel or parcels of land may be considered to have sufficient legal control for purposes of submitting a PUD District Plan Application.

B. The establishment of a PUD District Plan shall require two steps: (i) approval of the PUD District Plan Application; and (ii) enactment of a local law to adopt the provisions of the PUD District Plan, establish the legal boundaries of the district and to amend the Town Zoning Map.

C. After a PUD District Plan has been adopted by the Town Board, the applicant must obtain PUD Site Plan Approval for the project from the Town Planning Board.

D. No permit for the erection of a building or structure may be granted until after all necessary approvals under this Article have been issued.

E. The applicant for a PUD District shall pay and the Town shall be entitled to receive reimbursement for expenses associated with the review of any application submitted pursuant to this Article.

**§ 100-32 Planned Unit Development District Plan Application Requirements.**

The following must be submitted as part of an application to establish a PUD District Plan:

A. PUD District Plan Description. The application must include a description of the proposed PUD District Plan requirements, including the types of land uses, bulk requirements, parking requirements, the regulations of signage, as well as provisions, if any, relating to cluster development, incentives, bonuses, open space, design guidelines and the preservation of historic resources;

B. PUD District Plan Map. The applicant must provide a map of the PUD District Plan identifying the location of permissible land uses, roads, sidewalks, drainage, landscaped areas, parking, utilities and the total acreage of the proposed PUD District. A PUD District Plan must include an area no smaller than five (5) contiguous acres. In no instance shall a PUD District be bisected by a State Highway or County Highway. However, an area that includes land divided by internal private roads or roads intended to be dedicated to the Town, may be considered to be contiguous for the purpose of complying with this requirement.

C. Phasing Plan. The application must include a schedule describing all phases for the completion of buildings, public and private facilities and site improvements for the full buildout of the development and shall clearly indicate all aspects of the phasing of the entire development.

D. Application Timeline. The PUD District Plan must include a timeline providing deadlines to apply for PUD Site Plan Approval and building permits. Failure to meet the deadlines set forth in the PUD District Plan may result in the automatic revocation of the PUD District Plan Approval, unless extended by the Town Board.

E. Real Property Rights. The application must include a draft of all covenants, easements and rights of way relating to the site development and/or homeownership, homeowners associations and any lands dedicated to public use within the PUD District Plan.

F. Environmental Review. The Town Board must comply with the New York State Environmental Quality Review Act (SEQRA) when considering an application for a PUD District Plan. The applicant must provide a completed Part 1 of the Full Environmental Assessment Form. In addition, the applicant will be required to provide the Town with any information deemed necessary by the Town in order to evaluate the potential environmental impacts of a proposed development.

**§ 100-33 Procedure.**

The Aurelius Town Board may approve a proposed PUD District Plan after receiving comments and recommendations from the Town of Aurelius Planning Board and Zoning Board of Appeals. The following procedural steps shall be required prior to approval:

A. Preapplication conference. Before submission of an application for approval of a PUD District Plan, the applicant is encouraged to contact the Code Enforcement Officer to arrange for a meeting with representatives of the Town in order to obtain feedback on the application prior to formal submittal.

B. Referrals. Upon the receipt of a complete PUD District Plan application, the Town Board shall review it and refer it to the Town Planning Board, the Town Zoning Board of Appeals and the County Planning Board for comment.

C. Public Hearing(s). The Town Board shall be required to conduct one or more public hearing(s) prior to adopting a PUD District Plan. Notice of each public hearing shall be published in a newspaper of general circulation at least ten (10) calendar days in advance of the hearing. The application shall be made available for public review at least ten (10) calendar days prior to said public hearing at the office of the Town Clerk.

D. Review and Comment. The Town Planning Board and Town Zoning Board of Appeals must provide comments to the Town Board no later than sixty (60) days after having the application referred to them. If either board fails to provide comments prior to the deadline, the Town Board may proceed with receiving comments from that board.

E. Town Board Action. Following completion of the referral and comment process, at least one public hearing and satisfaction of the Town Board's obligations pursuant to SEQRA, the Town Board may vote to approve or deny the PUD District Plan Application. In the event that the application is approved, the Town Board must also adopt a local law to amend the Town Code to include the District Plan and to amend the zoning map.

F. PUD Site Plan Approval. Following approval of a PUD District Plan, the applicant must submit an application for PUD Site Plan Approval to the Town Planning Board and follow the identical procedure for Site Plan Review as outlined in Article XVII of the Town of Aurelius Zoning Law.

**§ 100-34 PUD District Plan Review Criteria.**

The Town Board shall weigh the following factors when considering whether to approve an application to create a PUD District Plan:

A. Whether the proposed plan will result in the efficient use of land, natural resources, energy, community services, infrastructure and utilities.

B. Whether the proposed plan is consistent with the Comprehensive Plan and the orderly development of the Town.

C. Whether the proposed plan will negatively impact natural resources, the environment or historic resources.

D. Whether the proposed plan will result in new employment opportunities for Town residents and investment in the community in the form of economic development.

E. Whether the proposed plan will improve the availability of affordable housing in the Town.

F. Whether the proposed plan will have a negative impact on existing residential, uses of land in the Town in terms of traffic, noise, dust, odors, glare, threats to human health or other nuisances.

**ARTICLE XIV**

**BULK REGULATIONS**

**§ 100-35 Applicable Regulations.**

Regulations governing lot area and lot width; front, side and rear yards; building coverage and building height are as specified in Article IV through Article X. All permitted uses are subject to the regulations appearing in Article IV, Article V, Article VI, Article VII, Article VIII, Article IX, Article X, Article XI, and Article XII, and additional regulations as follows.

**§ 100-36 Nonconforming Lots.**

A. Any lot with an area or a width less than that required in the district in which said lot is located may be used for any purpose permitted in the district, provided that all other regulations prescribed for the district shall be complied with, and further provided that said lot was held under separate ownership at the time of the adoption of this chapter and the owner thereof owned no adjoining land that could be combined with said lot to meet the dimensional requirements.

B. In the event that compliance with the yard and coverage requirements of the district would result in a residential structure of a width less than twenty-four (24) feet, the Board of Appeals shall determine and fix yard and coverage requirements for said lot to permit its reasonable utilization for a permitted use.

C. In no case shall a lot be approved in any zoning district that does not comply with the requirements of the Cayuga County Health Department. Cayuga County Health Department requirements, particularly with respect to lots not served by public sewer utilities shall supersede the dimensional requirements of any zoning district allowing development lots of less than one acre (40,000 square feet) within the Town of Aurelius.

**§ 100-37 Encroachments and Minimum Lot Area.**

The minimum yards and open spaces, including lot area per family, required by this chapter for any building existing at the time of adoption of this chapter or for any building hereafter erected or structurally altered shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot be reduced below the district requirement of this chapter.

**§ 100-38 Corner Lots.**

On a corner lot in any district where a front yard is required, a yard shall be provided on each street equal in depth to the required front yard on such streets and shall be 150% larger in land area than a standard lot, as set forth in The Town of Aurelius Subdivision Regulations. Corner lots within a Highway Overlay District shall have equal front yard setback as those required for the Overlay District. One (1) rear yard shall be provided on each corner lot, and the owner shall designate the rear yard on his application for a zoning permit. The Board of Appeals shall determine the yards and building width of a corner lot of record at the time of the passage of this chapter if the yard requirements would result in a residential structure less than twenty-four (24) feet wide.

**§ 100-39 Transition Yard Requirements.**

A. Where two (2) districts abut on the same street between two (2) intersecting streets and the front yard requirements of one district are less than those of the other district, there shall be provided for buildings hereafter constructed or structurally altered within a distance of fifty (50) feet from the district boundary line in the less restricted district a front yard equal in depth to the average required depth in the two (2) districts.

B. Where the side or rear yard of a lot abuts a side or rear yard of a lot in a more restricted district, there shall be provided along such abutting line or lines a side or rear yard equal in depth to that required in the more restrictive district.

**§ 100-40 Exception to Transition Yard Requirements.**

A. Where two (2) districts abut on the same street between two (2) intersecting streets and the front yard requirements of one district are less than those of the other district, and one or both districts are within the H-O Highway Overlay District, the highway overlay controls will take precedent over either district.

**§ 100-41 Projecting Architectural and Landscape Features.**

A. The space in any required yard shall be open and unobstructed except for the ordinary projections of windowsills, belt courses, cornices, eaves and other architectural features; provided, however, that such features shall not project more than thirty (30) inches into any required yard.

B. A paved terrace shall not be considered as part of a building in the determination of yard sizes or lot coverage, provided that such terrace is unroofed and without walls, parapets or other form of enclosure exceeding six (6) feet in height.

C. In determining the percentage of building coverage or the size of yards for the purpose of this chapter, enclosed porches or porches open at the side but roofed shall be considered a part of the building.

D. An open fire escape may extend into any required yard not more than six (6) feet, provided that such fire escape shall not be closer than four (4) feet at any point to any lot line.

E. Unenclosed entrance steps or stairways providing access to the first story of a building may extend into any required yard a distance not to exceed six (6) feet.

F. In any district, no fence, hedge, or wall shall exceed four feet in height in any front yard, or six feet in height in any side or rear yard, and provided further that such fence, hedge, or wall shall be no closer to any lot line than three feet. The decorative or finished side of any fence shall face outward from the lot.

G. No wall, fence, landscape structure, grading, or drainage activity shall cause a diversion of drainage to adjoining public or private property.

**§ 100-42 Exceptions to Height Limitations.**

The height limitations of this chapter shall not apply to farm structures, silos, belfries, Place of Worship spires, cupolas, penthouses and domes which are not used for human occupancy; nor to chimney's, ventilators, skylights, water tanks and necessary mechanical appurtenances usually carried above the roof level; nor to flagpoles, monuments, transmission towers and cables, radio and television antennas or towers and similar structures. Such features however shall be erected only to such height as is necessary to accomplish the purpose for which they are intended. No advertising device of any kind whatsoever shall be inscribed upon or attached to that part of any chimney, tower, tank or other structure which extends above the roof limitations.

**§ 100-43 Accessory Buildings, Structures and Outdoor Appliances.**

A. No accessory structure shall be permitted without the presence of an approved principal structure.

B. Farm structures shall be exempt from the provisions of this section except for front yard setback in the A and AR zoning district.

C. Number. There shall not be more than two (2) accessory buildings on each parcel intended or used for residential purposes.

D. Height. For R Residence Districts, maximum height of accessory buildings shall not exceed the height of the principal structure.

E. Attached accessory buildings in R residence districts. When an accessory building is attached to the principal building, it shall comply in all respects with the requirements of this chapter applicable to the principal building.

F. Outdoor Wood-Fired Boilers (OWB's) are prohibited outside of the Town's Agricultural (A) zoning district.

G. Accessory buildings in Commercial and Manufacturing District. Non-dwelling accessory buildings shall comply with front and side yard requirements for the principal building to which they are accessory and shall be not closer to any rear property line than ten (10) feet (see district requirements for more detail).

H. No outdoor appliance shall be located within 500' of a neighboring residence or be located in a manner that impacts the air or water quality of adjoining property.

**ARTICLE XV**

**OFF-STREET PARKING AND LOADING**

**§ 100-44 Off-Street Parking.**

A. Off-street parking space shall be required for all buildings constructed or new uses established after the effective date hereof. Each off-street space shall consist of at least one hundred eighty (180) square feet with a minimum width of nine (9) feet. In addition, space necessary for aisles, maneuvering and drives shall be provided. Parking requirements are specified in § 100-44 in Schedule A.

B. For uses not specified, the Board of Appeals shall, on appeal and after recommendation of the Planning Board, establish parking requirements in specific cases consistent with those recommended by the Town Engineer.

1. For any building having more than one (1) use, parking space shall be required as provided for each use.



2. Floor areas, for the purpose of computing parking requirements, shall be the sum of the horizontal area of the several floors of a building, excluding basement, cellar and attic areas used primarily for storage or service.

**Off-Street Parking  
- Schedule A -**

<u>Use</u>	<u>Spaces Required</u>
Dwelling	1 for each dwelling unit
Senior Housing	1 for each unit plus 1 for each 1000 square feet of floor area
Rooming house, short-term rental, motel or hotel	1 for each guest room
Administrative, professional, eleemosynary (e.g., relating to charity), governmental or utility office	1 for each 400 square feet of floor area.
Funeral home	20 for each reposeing room
Place of Worship	1 for each 5 seating spaces in main assembly room
School	2 for each elementary classroom 5 for each secondary classroom
Theater or other places of assembly	1 for each 5 seating spaces
Nursing or convalescent home	1 for each 4 beds
Retail store or bank	1 for each 400 square feet of floor areas
Clubs and restaurants	1 for each 50 square feet of floor area
Bowling alley	5 for each alley
Wholesale, storage, freight terminal or utility use	1 for each 1,000 square feet of floor area
Industrial or manufacturing use	1 for each 2 employees on the maximum working shift

**§ 100-45 Off-Street Loading.**

A. At least one (1) off-street loading facility shall be provided for each commercial or industrial establishment hereafter erected or substantially altered to have a gross floor area in excess of five thousand (5,000) square feet, computed as described in § 100-44. Space for off-street loading shall be in addition to space for off-street parking and should be located in a manner that does not encroach upon pedestrian circulation, traffic, circulation drives for standard parking or standard vehicle parking (i.e., automobile parking for employees, visitors or general use).

B. Each facility shall be subject to the following minimum requirements:

1. Each berth shall not be less than twelve (12) feet wide, thirty-three (33) feet long and fourteen (14) foot in height if covered.

2. Space for such berth may occupy any part of any required side or rear yard, except that no such berth shall be located closer than one hundred (100) feet to any lot in any resistance district unless wholly within a completely enclosed building.

**ARTICLE XVI**

**NONCONFORMING USES AND STRUCTURES**

**§ 100-46 Continuation.**

Except as provided in § 100-47 and 100-48 of this Article, any use of land or a building or structure or part thereof legally existing at the time that this chapter or part thereof legally existing at the time that this chapter or any amendment hereto becomes effective may be continued, subject to the provisions of § 100-49, 100-50, and 100-51 of this Article, although such building or structure or use does not conform to the provisions of the district in which it is situated. In no case shall non-conforming lots be created by the Town of Aurelius following the adoption date of this zoning law.

Commercial uses that pre-exist the adoption of this zoning law will be allowed to continue as commercial uses in perpetuity. However, existing commercial uses that plan to expand to adjoining parcels shall be subject to § 100-49, 100-50, and 100-51 of this Article.

**§ 100-47 Abandonment.**

When a nonconforming use has been discontinued or abandoned for a period of one (1) year or longer, it shall not thereafter be reestablished, and the future use shall be in conformity with the provisions of this chapter. All farms are exempt from the provisions of this section.

**§ 100-48 Junkyards and Billboards.**

Notwithstanding any other provision of this chapter, any automobile or other junkyard or any billboard or nonconforming sign or advertising device in existence in a residence district at

the time of the adoption of this chapter or an amendment hereto shall be discontinued within one (1) year from the date of such adoption or amendment.

**§ 100-49 Change in Use.**

A nonconforming use may be changed to another nonconforming use of the same or lower classification (i.e., based upon zoning classifications that allow for more intensive land uses) according to the provisions of this chapter, and when so changed such use shall not thereafter be changed to a nonconforming use of a higher classification. The classifications of uses in ascending order are A, AR, R, RR, PUD, C and I.

**§ 100-50 Maintenance of Use.**

A nonconforming use is hereby required to be maintained in such condition as will not constitute a danger to the safety, health or general welfare of the public and as not to constitute a nuisance beyond that generally inherent in such a nonconforming use in the district in which it is situated. Proposed alterations and extensions of the nonconforming use shall be reviewed by the Zoning Board of Appeals to ensure that such alteration or extension shall not tend to increase the inherent nuisance and that such alteration or extension shall not violate any provisions of this chapter regarding yards, lot area or lot coverage for the district in which it is situated or to increase any existing violation of such provisions.

**§ 100-51 Restoration.**

Nothing herein shall prevent the substantial restoration within one (1) year and continued use of a nonconforming building or structure damaged by fire, flood, earthquake, act of God or act of the public enemy, provided that such restoration shall comply with the provisions of § 100-50 of this Article. All farms are exempt from the provisions of this section.

**ARTICLE XVII**

**PLANNING BOARD, SITE PLAN AND SPECIAL PERMIT REVIEW**

**§ 100-52 Establishment and Membership**

A. A Planning Board is established by the Town of Aurelius in accordance with the Town Law of New York State. It shall consist of five (5) members. The term of office of the members of the Planning Board and the manner of their appointment shall be in accordance with the provisions of the Town Law. Vacancies occurring in said Board shall be filled for such unexpired period only.

B. The Town Board shall have the authority to appoint alternate members of the Planning Board for a term of one (1) year. The chairperson of the Planning Board may designate a duly appointed alternate to substitute for a member when such member is unable to participate on a matter before the Board because of a conflict of interest or where a quorum is lacking. 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 meeting at which the substitution is made.

**§ 100-53 Meetings.**

All meetings of the Planning Board shall be held at the call of the Chair and at such other times as such Board may determine. Such Chair, or in his/her absence the Deputy Chair, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. Such Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.

**§ 100-54 Powers and Duties.**

A. Pursuant to Town Law § 274-a, the Planning Board is authorized to review, approve, approve with modifications or disapprove applications for site plan review in accordance with the standards set forth in § 100-55 of this article.

B. Pursuant to Town Law § 274-b, the Planning Board is authorized to review, approve, approve with modifications or disapprove applications for special permits in accordance with the standards set forth in § 100-56 of this article.

C. Pursuant to Town Law §§ 276 through 279, the Planning Board is authorized to review, approve, approve with modifications or disapprove subdivisions of land as set forth in the Town's Subdivision Regulations.

D. The Planning Board shall also exercise all other powers conferred upon it by the provisions of this code and New York State Town Law. It shall rule upon all matters which may be referred to it from time to time by resolution of the Town Board. It shall conduct hearings and perform its duties in accordance with the procedures provided in the applicable sections of the Town Law and of this chapter.

**§ 100-55 Site Plan Review – Commercial, Industrial, Institutional and Multi-Family Residential Uses.**

A. Purpose and Intent.

The Town of Aurelius, New York incorporates this Site Plan Review process as a tool for the Planning Board to review Commercial, Industrial, Institutional and Multi-family Residential uses in all zoning districts. For the purposes of this Section, Multi-family Residential shall mean a building containing three or more attached dwelling units. The intent of this Site Plan Review ordinance is to allow for the Town Planning Board to have power of discretion in reviewing Commercial, Industrial, Institutional and Multi-family Residential Site Plans pertaining to project design and landscaping requirements.

As an integral component of Site Plan Review, the Town Board of Aurelius has determined that poor quality of design, poor location of buildings and structures (including signs and accessory buildings) adversely affects the desirability of the immediate neighborhood and impairs the benefits, stability and value of improved and unimproved property in such areas.

Therefore, it is the intent of this article to grant the Planning Board with the review discretion necessary to avoid such conditions and to ensure that the location and design of buildings, structures and open spaces in the Town aid in creating a balanced and harmonious composition of the whole as well as the relationship of its parts. As such, all applications requiring Site Plan Review will be subject to a general Architectural Review and will be evaluated with respect to the context of, and compatibility with, their surrounding environs.

1. Additional duties of the planning board for architectural review.

a. The Town of Aurelius Planning Board, appointed by the Town Board is duly authorized to perform General Architectural Reviews as an integral component of the Town's Site Plan Review Procedure under the provisions of this Section.

b. The Planning Board is charged with the duty of maintaining the desirable character of the Town and of disapproving the construction, reconstruction and alteration of buildings subject to Site Plan Review that are designed without consideration of the harmonious relation of the new or altered building to such buildings as already exist and the environs in which they are set.

c. The Planning Board is charged with the duty of exercising sound judgment and of rejecting plans which, in its opinion, based upon study and advice of the Town Engineer, Town Attorney or an Architectural/Historic Preservation Consultant, are not of harmonious character because of proposed style, materials, mass, line, detail or placement upon the property or in relation to the spaces between buildings or the natural character of the landscape or because the plans do not provide for the location and design of structures and open spaces so as to create a balanced and harmonious composition as a whole and in relation to its several parts and features to each other.

2. The site plan review process has three primary steps as follows:

a. Concept Review – Sketch Plan.

b. Preliminary Site Plan Review.

c. Final Site Plan Review and Approval.

3. Procedure for preliminary site plan review and action.

Prior to the issuance of a building permit for any Site Plan Review uses the Town Board shall refer the application and all application materials as specified herein to the Planning Board for its review and approval in accordance with the provisions set forth in this Section. In cases where Land Use and/or area density is at issue, or where specific cases of hardship or improper classification are evident, the Planning Board shall notify the Town Board and shall refer the application to the Zoning Board of Appeals for an opinion and recommendation prior to granting Preliminary Site Plan Approval. If an application for a variance of land use or area is made to the Zoning Board of Appeals prior to the application for Site Plan Review, the Zoning Board of Appeals shall notify the Town Board and the Planning Board of the action and opinion prior to the granting of preliminary Site Plan Approval.

Within sixty-two (62) days of the receipt of a Preliminary Site Plan and all information necessary to constitute a fully **complete** application, the Planning Board shall inform the applicant, in writing, of its decision. An application shall be considered **complete** when the applicant has submitted all information necessary to make a determination of significance under the New York State Environmental Quality review.

If the Planning Board determines that the site plan or building style does not meet the standards of the town, the applicant may request an extension of the 62-day period.

a. Concept Review. A meeting shall be held between the Planning Board and applicant to review the basic site and architectural design concept and generally determine the information to be required on the preliminary site plan. The applicant should provide the data discussed below in addition to a statement or rough sketch describing the proposal. The Planning Board shall issue written comments as the result of this meeting.

The applicant shall provide the following information:

(1) An area map showing the parcel under consideration for Site Plan Review, and all properties, subdivisions, streets and easements within five hundred (500) feet of the boundaries thereof.

(2) A map of site topography at no more than five (5) feet contour intervals. If general site grades exceed five (5) percent or portions of the site have bedrock outcrop or the susceptibility to erosion, flooding or ponding, a soils overlay and a topographic map showing contour intervals of not more than two (2) feet of elevation should also be provided.

(3) The owner, the architect, or other agent of the owner shall submit preliminary plans, elevations, sketches and/or proposals to the Planning Board for consultation concerning preferred architectural aesthetics prior to filing an application for a building permit or an application for Site Plan Review.

b. Application for Preliminary Site Plan Approval. An administrative fee of fifty dollars (\$50.00) shall accompany an application for preliminary Site Plan Review and approval. No further fee is required at the final site plan stage.

The applicant shall pay anticipated costs that the Planning Board expects to incur due to consulting services or other review costs consistent with section 100-94 and the applicant shall be required to place funds into an escrow account consistent with section 100-94.

An application for Architectural Review and preliminary site plan approval shall be made in writing to the CEO and shall be accompanied by information drawn from the following checklist, as determined necessary by the Planning Board at the Concept Review meeting.

(1) Preliminary Site Plan Submission Requirements:

- Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
- North arrow, scale and date;
- Boundaries of the property plotted to scale;
- Name and address of all adjoining property owners;
- Existing watercourses and drainage ways;
- Grading and drainage plan, showing existing and proposed contours;
- Location, proposed use and height of all buildings;
- Location, design and construction materials of all parking and truck loading areas, showing access and egress;
- Provision for pedestrian circulation access and handicapped access;
- Location of outdoor storage, and method of screening if any;
- Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls, fences, and signs;
- Location, design and general construction materials of all existing or proposed buildings, structures and accessory structures including elevations of the building(s) illustrating all views fronting public streets, and/or three-dimensional renderings necessary to illustrate the size shape and form of all sides of the building(s);
- Description of the method of sewage disposal and location, design and construction materials of such facilities;
- Description of the method of securing public water and location, design and construction materials of such facilities;
- Location of fire and other emergency zones, including the location of fire hydrants and fire lanes;

- Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
- Location, size and design and construction materials of all proposed signs;
- Location and proposed development of all buffer areas, including existing vegetative cover;
- Location and design of outdoor lighting facilities and light emissions to 25 feet within adjoining property;
- Designation of the amount of building area proposed for retail sales or similar commercial activity;
- General landscaping plan and planting schedule;
- Other elements integral to the proposed development as considered necessary by the Planning Board including identification of any state or county permits required for the project's execution;
- Agricultural Data Statement if located within 500.0 feet of an agricultural district (forms can be obtained at the Cayuga County Planning Department or from the Town Clerk);
- Archeological survey as required by the New York State Historic Preservation Office (SHPO) if any, and
- Completed Environmental Assessment Form (EAF) in compliance with the New York State Environmental Quality Review Act (SEQRA).

(2) Review Criteria. The following criteria for the Planning Board review may include, but shall not be limited to the following:

(a) Adequacy and arrangement of vehicular traffic egress/ingress and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.

(b) Adequacy, arrangement of pedestrian, ADA compliant traffic access, and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.

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

(d) Location, arrangement, size, design, architectural style and general site compatibility of buildings, lighting and signs.



(e) Relationship of proposed architectural styles and materials within the context of the community, surrounding neighborhood or compatibility with adjacent environs.

(f) Adequacy and maintenance of stormwater and drainage facilities.

(g) Adequacy of water supply for drinking and fire protection purposes and sewage disposal facilities.

(h) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.

(i) In the case of an apartment complex or other multiple dwelling, the adequacies of usable open space for play areas and informal recreation.

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

(k) Adequacy of fire lanes, other emergency zones, and the provision of fire hydrants.

(l) Special attention to the adequacy of structures, roadways, and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

(m) Relationship to active agricultural land and fallow land to ensure that the conversion of agricultural land to non-agricultural uses is minimized and to ensure that all potential conflicts with agricultural operations are minimized.

(3) Consultant Review. The Planning Board may consult with the town engineer, an engineer appointed by the Town Board, town building inspector, fire commissioners, conservation council, commissioner of public works, other local and county officials, and its designated private consultant, in addition to representatives of federal and state agencies including but not limited to the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.

(4) Public Hearing. The Planning Board shall conduct a public hearing on the preliminary site plan. Such public hearing shall be conducted within sixty-two (62) days of the receipt of the **complete** application for preliminary site plan approval and shall be advertised in a newspaper for general circulation in the Town at least five (5) days before the public hearing.

c. Planning Board Action on Preliminary Site Plan.

The proposed development in question may be subject to the provisions of the State Environmental Quality Review Act (SEQRA). First, the Planning Board should identify the type of action the proposed development is according to the SEQRA.

Depending on the size, location, and other factors, it may be a Type I or an Unlisted action. To make a decision, the Planning Board should consult Part 617 of Article 8 of Environmental Conservation Law (New York). The Planning Board should also review the Environmental Assessment Form (EAF) submitted as part of the application and consider compliance with current planning activities and plans. The action type and related procedure will dictate the next steps, if any, to be taken to comply with the SEQRA regulations.

If it is determined that an environmental impact statement will be prepared for the proposal in question, all time frames and deadlines are delayed until a draft environmental impact statement is filed. The application is not complete, and therefore the review clock does not start, until a determination of no significance has been made or until a draft environmental impact statement has been completed and submitted to the Planning Board. When the draft environmental impact statement is completed, the period for Planning Board review begins (62 days). If another agency has determined that the proposal in question may have a significant effect on the environment, the Planning Board shall not issue a decision until a final environmental impact statement has been filed.

When compliance with SEQRA is complete, the Planning Board shall act on the application within sixty-two (62) days. If no decision is made within said sixty-two (62) day period, the preliminary site plan shall be considered approved. The Planning Board's action shall be in the form of a written statement to the applicant stating whether the preliminary site plan is approved, disapproved or approved with modifications.

The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Board's statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.

#### 4. Procedure for Final Site Plan Review and Action.

After receiving approval, with or without modifications, from the Planning Board on a preliminary site plan, the applicant shall submit a final, detailed site plan to the Planning Board for approval. If more than six (6) months has elapsed since the time of the Planning Board's action on the preliminary site plan and, if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review.

The final site plan shall conform substantially to the approved preliminary site plan. It should incorporate any modifications that may have been recommended by the Planning Board in its preliminary review including consensus regarding recommended architectural style. All such compliances shall be clearly indicated by the applicant on the appropriate submission.

The following additional information shall accompany an application for final site plan approval:

- a. Record of application for and status of all necessary permits from state and county officials;
- b. Detailed sizing and final material specification of all required improvements; and
- c. An estimated project construction schedule.

(1) Required Referral. Prior to taking action on the final site development plan, the Planning Board shall refer the plan to the County Planning Department for advisory review and a report in accordance with Section 239 of the General Municipal Law, where the proposed action is within a distance of 500 feet from the boundary of a farm operation located in an Agricultural District, any City of Auburn, Village of Cayuga, or town, or from the boundary of any existing or proposed county or state park or other recreation 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 or 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.

(2) Planning Board Action on Final Detailed Site Plan. No final site plan approval shall be granted on any application that has been referred to the County Planning Department unless the County Planning Department has recommended approval of the site plan, the plans have been amended to incorporate any conditions of approval recommended by the County Planning Department; provided, however, that the Planning Board may grant site plan approval contrary to the County Planning Department's recommendation by a vote of a majority plus one of its members.

Within sixty-two (62) days of receipt of the application for final site plan approval, the Planning Board shall render a decision to Town Board. If no decision is made within the sixty-two (62) day period, the final site plan shall be considered approved. Conditional approval shall not be granted based on engineering issues necessary to accomplish site development.

No conditional approvals will be granted for any engineering issue requiring further review by the Town Engineer or reviewing engineer appointed by the Aurelius Town Board.

##### 5. Applicability of Site Plan Review Process.

The Site Plan Review Process shall apply to all uses, whether designated "permitted" or otherwise, in those portions of all zoning districts located within The Town except the following: One-family dwelling, Two-family dwelling, Farm. Such uses shall be termed "Site Plan Review Uses."

**§ 100-56 Special Permit Review.**

A. Applications for Special Permit Uses shall be subject to review and approval by the Planning Board and shall include consideration of the site plan review criteria set forth in §100-55 in addition to the special permit standards identified in subsection C below.

B. In granting or denying applications for Special Permit Uses, the Planning Board shall take into consideration the scale of the proposed project and the possible impact of the proposed project on the functioning of nearby farm operations, as well as any proposed or existing conservation easements, architectural restrictions or other measures that would tend to mitigate potential adverse impacts and preserve or enhance the scenic, natural and historic character of the Town.

C. The Planning Board's review of an application for a Special Permit Use shall include, but not be limited to, the following:

1. Determination of whether the proposal will comply with all provisions and requirements of this chapter and of all other local laws and regulations and will be consistent with the purposes of the land use district in which it is located, with the goals of the Comprehensive Plan, and with the purposes of this chapter.

2. Adjacent land uses. The Planning Board shall consider whether the proposed Special Permit Use will have a negative effect on existing adjacent land uses.

3. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, channelization structures and traffic controls.

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

5. Adequacy of stormwater and drainage facilities.

6. Adequacy of water supply and sewage disposal facilities.

7. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise-deterring buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.

8. Protection of adjacent or neighboring properties against noise, glare, dust, odors, pollution, unsightliness or other objectionable features.

9. Accessibility to fire, police and other emergency vehicles.

10. Suitability for the property on which it is proposed in light of the property's size, location, topography, vegetation, soils, natural habitat and hydrology and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads.

D. Conditions. The Planning Board may require such conditions on operation, design and layout of structures and provision of screening, buffer areas and off-site improvements as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic and scenic resources of the Town.

E. Change of Special Permit Use. A special permit shall apply only to the use for which it has been granted. A new special permit is required for any subsequent change of use.

F. The Planning Board shall conduct a public hearing to consider issuance of any special permit within sixty-two (62) days from the date upon which it receives a complete application and shall publish notice said hearing in a newspaper of general circulation in the Town at least five (5) days prior to the hearing. The Planning Board shall, in addition, mail written notice of such public hearing by regular mail to the applicant and to all owners of property contiguous to the parcel where the proposed special use is to be conducted using the current address and property ownership information for contiguous parcels as reflected in the Town Assessor's records, and such regular mail notice is to be mailed at least five (5) days prior to the hearing.

G. The Planning Board shall render a final written decision on the application within sixty-two (62) days after the public hearing, unless such time is extended by mutual consent by the applicant and the Planning Board. Copies of the Planning Board's final decision shall be filed in the office of the Town Clerk and mailed to the applicant within five (5) business days after such decision is rendered.

**§ 100-57 Expiration, Change of Use, Violations.**

A. A special permit shall expire if the use ceases activity for more than twenty-four (24) consecutive months for any reason, if the applicant fails to obtain the necessary zoning permit(s) or fails to comply with the conditions of the special permit or site plan approval within eighteen (18) months of its issuance, or if the time limit in the applicant's zoning permit expires without renewal.

B. A special permit shall apply only to the use and/or site plan for which it has been granted. A new special permit and/or site plan is required for any subsequent change of use that requires a special permit and/or site plan approval.

C. A special permit may be revoked by the Planning Board if the permittee violates the conditions of the special permit or engages in any construction or alteration not authorized by the special permit or site plan approval. A permittee shall be entitled to a hearing before the Planning Board prior to any such revocation.

D. Any violation of the conditions of a special permit shall be deemed a violation of this chapter and shall be subject to enforcement action as provided in this Chapter.

**§ 100-58 Effective Date.**

This amendment shall take effect ten (10) days after publication pursuant to Section 133 of the Town Law.

## ARTICLE XVIII

### ADMINISTRATION AND ENFORCEMENT

#### § 100-59 Code Enforcement Officer.

The provisions of this chapter shall be administered and enforced by a person designated by the Town Board as the Code Enforcement Officer who shall have the power to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this chapter. No zoning permit or certificate of occupancy required hereunder shall be issued by the CEO except in compliance with the provisions of this chapter or as directed by the Board of Appeals under the provisions of Article XIX.

#### § 100-60 Zoning Permit.

A. No building shall be erected or altered and no change in the primary use of a property initiated and no clearing, grading or excavation for any building or use shall begin unless and until a zoning permit for such work has been issued by the CEO in compliance with this chapter and the Building Code of New York State, as amended.

B. Applications for zoning permits shall be submitted in triplicate on a form or forms provided by the Code Enforcement Officer. Each zoning permit application shall set forth all the information necessary to determine compliance with the provisions of this chapter and the Building Code of New York State, as amended. The CEO may require such additional information, other than that called for on the application form, as may reasonably be needed to determine if the proposed action is in conformity with the provisions of this chapter and the State Uniform Fire Prevention and Building Code.

C. The CEO shall have the right to inspect all multi-family residential rental units in the Town of Aurelius annually. In the event that an interim inspection is deemed necessary, the CEO may request an inspection upon advance notification to the property owner of fifteen (15) business days.

#### § 100-61 Certificate of Occupancy.

- A. A certificate of occupancy is required for any of the following:
1. Occupancy and use of a building hereafter erected, altered, moved or extended.
  2. Change in the use of an existing building.
  3. Occupancy and use of vacant land, except for any use consisting primarily of tilling the soil or similar agricultural use.
  4. Change in the use of land, except for any use consisting primarily of tilling the soil or similar agricultural use.

B. A certificate of occupancy may be obtained, on application from the CEO. Such certificate shall be issued only if the proposed use of the building or land conforms to the provisions of this chapter. The CEO shall make or cause to have made an inspection of each building or lot for which a certificate of occupancy has been applied before issuing such certificate. Such inspection shall be made within a reasonable period of time from the date of application.

**§ 100-62 Penalties for Offenses.**

A. Any person, firm, corporation or other entity who or which shall violate any of the provisions of this Local Law, or any rule or regulation made pursuant thereto, shall be guilty of a violation and, upon conviction thereof, shall be subject to a fine not to exceed \$250 or imprisonment not to exceed 15 days, or both. Each day during or on which a violation of this Local Law shall occur shall be deemed a separate and distinct offense.

B. In addition to the above penalties, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction any offense against any provision of this Local Law.

**ARTICLE XIX**

**BOARD OF APPEALS**

**§ 100-63 Establishment and Membership.**

A. A Board of Appeals is established by the Town of Aurelius in accordance with the Town Law of New York State. It shall consist of five (5) members. The term of office of the members of the Board of Appeals and the manner of their appointment shall be in accordance with the provisions of the Town Law. Vacancies occurring in said Board shall be filled for such unexpired period only.

B. The Town Board shall have the authority to appoint alternate members of the Board of Appeals for a term of one (1) year. The chairperson of the Board of Appeals may designate a duly appointed alternate to substitute for a member when such member is unable to participate on a matter before the Board because of a conflict of interest or where a quorum is lacking. 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 meeting at which the substitution is made.

**§ 100-64 Statutory Authority.**

The Board of Appeals shall have the duties, rights, powers and functions conferred upon it by § 267 of the Town Law and any other provisions of law or ordinance applicable thereto, including the following.

**§ 100-65 Meetings.**

All meetings of the Board of Appeals shall be held at the call of the Chair and at such other times as such Board may determine. Such Chair, or in his/her absence the Acting Chair, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. Such Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.

**§ 100-66 Records.**

All decisions of the Board shall be in writing, and a copy of each decision shall be sent to the applicant and to the CEO. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall promptly be filed in the Town Clerk and shall be a public record. Each decision shall set forth fully the reasons for the decision of the Board and the findings of fact on which the decision was based. Such findings and reasons shall include references to the standards where the appeal is for a variance or a special permit.

**§ 100-67 Appeals.**

A. The Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by the CEO or other administrative official or body charged with the enforcement of this chapter. It shall also hear and decide all matters referred to it upon which it is required to pass under this chapter. The concurring vote of a majority of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the CEO or to decide in favor of the applicant any matter upon which it is required to pass under this chapter or to effect any variation in this chapter. Such appeal may be taken by any person aggrieved or by any officer, department, board, or bureau of the town.

B. Such appeal shall be taken within thirty (30) days or such additional time as shall be prescribed by the Board of Appeals by general rule, by filing with the CEO and with the Board of Appeals a notice of appeal specifying the grounds thereof. The CEO shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.

**§ 100-68 Stay of Proceedings.**

An appeal stays all proceedings in furtherance of the action appealed from unless the CEO from whom the appeal is taken certifies to the Board of Appeals, after the notice of appeal shall have been filed with him, that by reason of acts 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 Officer from whom the appeal is taken and on due cause shown.



**§ 100-69 Powers and Duties; Criteria for Decisions.**

The Board of Appeals shall have the following powers and duties prescribed by statute and by this chapter:

A. Interpretation. On appeal from a determination of the Code Enforcement Officer or other administrative official or body charged with the enforcement of this chapter, to hear and decide on questions where it is alleged there is an error in any order, requirements, decision, or determination involving the interpretation of any provision of this chapter.

B. Variance. On an appeal from a determination of the Code Enforcement Officer or other administrative official or body charged with the enforcement of this chapter, after notice and public hearing and in conformity with the law, to grant area variances and use variances as those terms are defined herein. The Board of Appeals shall prescribe appropriate conditions and safeguards to carry out the requirements of this subsection and shall not grant any variance unless it shall make a finding of fact based upon the evidence as presented to it in each specific case as specified below:

1. Area Variance. This is a variance involving dimensional deviations from the standards set forth in this chapter. It is intended to serve as a remedy when the Board of Appeals finds that, due to the specific conditions of a property, the strict application of the provisions of this chapter prohibit or unreasonably restrict the use of the land or building for which such variance is sought, and the granting of the variance is necessary for the reasonable use of such property. When granting an area variance, the Board of Appeals shall grant the minimum variance that it deems necessary and adequate. In making its determination, the Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. The Board shall also consider and address each of the following criteria in making a determination for an area variance:

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

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

c. Whether the requested area variance is substantial.

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

e. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

2. Use Variance. This is a variance which permits a use of land which is prohibited by this chapter. The granting of a use variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the owner. When granting a use variance, the Board of Appeals shall grant the minimum variance that it deems necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. The Board of Appeals shall not grant a use variance unless it finds that the applicable zoning regulations have caused an unnecessary hardship. In order to prove an unnecessary hardship, the applicant is required to demonstrate to the Board of Appeals that, with respect to each and every permitted use under the zoning regulations for the particular district where the property is located, each of the following criteria is satisfied:

- a. The applicant cannot realize a reasonable return on the property, and such lack of return is substantial as demonstrated by competent financial evidence.
- b. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.
- c. The requested use variance, if granted, will not alter the essential character of the neighborhood.
- d. The alleged hardship has not been self-created.

3. In any case, the granting of the variance will be in harmony with the intent, spirit and purpose of this chapter and will not otherwise be injurious to the neighborhood.

**§ 100-70 Hearing and Determination.**

The Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties and by publication at least once in the official newspaper seven (7) days before the date of the hearing and shall decide the same within a reasonable time. The petitioner and/or his duly authorized representative shall be present for the hearing. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal is taken.

**ARTICLE XX**

**AMENDMENTS**

**§ 100-71 Initiation.**

A. The Town Board may from time to time, on its own motion, amend, supplement, repeal or change the regulations and district boundaries established by this chapter.

B. Whenever the owners of fifty percent (50%) or more of the frontage in any district or part thereof shall present a petition, duly signed and acknowledged, to the Town Board, requesting an amendment, supplement or change of the regulations prescribed for such district or

part thereof, it shall be the duty of the Town Board to vote upon said petition within thirty (30) days after the filing of the same by the petitioners with the Town Clerk.

C. The Planning Board may, by resolution, propose an amendment to the Town Board, suggesting a change or repeal of the regulations. Within sixty (60) days from the time such resolution is filed with the Town Clerk, it shall be the duty of the Town Board to vote on such proposed amendment.

**§ 100-72 Referral to Town Planning Board and County Department of Planning.**

A. All proposed amendments, supplements, or changes originating by petition or by motion of the Town board shall be referred to the Planning Board for a report and recommendations thereon. The Planning Board shall submit its report within thirty (30) days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to be approval of the proposed amendment.

B. Whenever any zoning regulation or any amendment, including special permits or variances, would change the district classification of or a regulation applying to real property within a distance of five hundred (500) feet from any boundary line of properties in a neighboring municipality or upon other county or state property as described in §§ 239-l and 239-m of the General Municipal Law, said zoning regulation or amendment shall be referred by the Town Board to the Cayuga County Department of Planning, which Department shall have thirty (30) days in which to report its recommendations to the Town Board. Failure of the County Department of Planning to report within thirty (30) days may be construed to be approval by the Department.

**§ 100-73 Public Hearing.**

Before any amendment, supplement or change in the regulations or district boundaries, there shall be a public notice and hearing thereon as provided by law. Such hearing may be held by the Town Board, by a committee of the Board or by the Planning Board on request of the Town Board.

**§ 100-74 Adoption.**

After the public hearing and referral to and report by the Planning Board, a majority vote of the members of the Town Board shall be required to amend this chapter except as described in § 100-71.

**§ 100-75 Protest Petitions.**

If a protest against a proposed amendment, supplement or change is presented to the Town Board, duly signed and acknowledged by the owners of twenty percent (20%) or more of the area of the land included in such proposed change or by the owners of twenty percent (20%) or more of the land immediately adjacent extending one hundred (100) feet therefrom or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of three-fourths ( $\frac{3}{4}$ ) of the Town Board.

**ARTICLE XXI**  
**MOBILE HOMES**

**§ 100-76 Temporary Mobile Homes.**

Location of an individual mobile home may be permitted in the A Agricultural District upon authorization of a permit by the Board of Appeals when the Board determines that one of the following criteria has been met:

A. Temporary Mobile Home: Family Member.

1. The location of the mobile home is temporary and shall exist only for the purpose of serving as a dwelling unit for a person or persons of the immediate family occupying a permanent residence on the same parcel. For the purpose of this Article, "immediate family" is limited to mother, father, brother, sister, son, daughter, mother-in-law, father-in-law or grandparent(s). The Board of Appeals, in considering an application for such a temporary mobile home permit shall determine that:

a. The applicant is a member of the immediate family of the person or persons occupying a permanent residence on the same parcel.

b. No other viable housing alternatives exist for the person or persons who would occupy the mobile home (criteria to be considered include income, illness or disability, etc.).

c. The area requirements, including front, side and rear yard setbacks, shall be adequate.

d. Adequate drinking water and sanitary facilities are provided in accordance with the Cayuga County Sanitary Code and any amendments thereof.

e. A temporary mobile home shall be located within 100 feet of the principal dwelling on a 6" reinforced concrete pad and septic system approved by a licensed professional engineer or architect.

2. If the Zoning Board of Appeals determines that the above criteria have been met, it may issue a two-year temporary permit. Said temporary permit may be renewed for additional two-year periods upon a determination by the CEO that the applicant is complying with all conditions under which the permit was originally issued.

3. No permanent addition, other than an enclosed entryway or storage building, shall be permitted for a temporary mobile home for a family member.

4. Within thirty (30) days of such time as the mobile home is no longer used for the immediate family member for whom the original temporary permit was granted, the owner of the parcel on which the mobile home is located shall notify the CEO that such condition exists.

5. Within a reasonable time period, not to exceed sixty (60) days (unless an additional 60-day extension is granted by the CEO), from when the temporary mobile home is no longer used for the purpose for which the permit was granted, the owner of the parcel on which the mobile home is located shall remove or cause to be removed the temporary mobile home from the parcel.

B. Temporary Mobile Home: Farm-Related.

1. The location of the mobile home is temporary and in conjunction with an operating farm and shall exist only for the purpose of serving as a dwelling unit for a person or persons principally employed in the operation of the farm. The Board of Appeals, in considering an application for such farm-related mobile home, shall determine that:

a. The occupant of the mobile home is principally employed in the operation of the farm.

b. There shall be no transfer of land on which to place such mobile home. The ownership of the land on which the mobile home is to be placed shall be maintained by the owner of the farm unit.

c. The area requirements, including front, side and rear yard setbacks, shall be no less than that required for the principal structure.

d. Adequate drinking water and sanitary facilities are provided in accordance with the Cayuga County Sanitary Code and any amendments thereof.

e. A temporary mobile home shall be located within 100 feet of the principal dwelling on a 6" reinforced concrete pad and an individual septic system approved by a licensed professional engineer or architect.

2. If the Zoning Board of Appeals determines that the above criteria have been met, it may issue a one-year temporary permit.

3. No permanent addition, other than an enclosed entryway or storage building, shall be permitted for a farm-related mobile home.

4. Within thirty (30) days of such time as the mobile home is no longer used as a dwelling unit for a person or persons principally employed in the operation of the farm on which the mobile home is located, the owner of the farm shall notify the CEO that such condition exists.

5. Within a reasonable time period, not to exceed sixty (60) days (unless an additional 60-day extension is granted by the CEO), from when the farm-related mobile home is no longer used for the purpose for which the permit was granted, the owner of the farm on which the mobile home is located shall remove or cause to be removed the mobile home from the parcel.

C. Temporary Mobile Home: New Construction/Reconstruction.

1. The location of the mobile home is temporary and shall exist only for the purpose of serving as a dwelling unit during the construction or reconstruction of a permanent dwelling unit, the Board of Appeals, in considering an application for such a temporary mobile home permit, shall determine that:

a. An application for a building/use permit for a permanent residence has been applied for and granted to the applicant who is requesting the temporary mobile home permit, and the foundation of the permanent home has been approved.

b. The area requirements, including front, side and rear yard setbacks, shall be adequate.

c. Adequate drinking water and sanitary facilities are provided in accordance with the Town of Aurelius Sanitary Code and any amendments thereof.

2. If the Zoning Board of Appeals determines that the above criteria have been met, it may issue a one-year temporary permit. Said temporary permit may be renewed for not more than four (4) additional one-year periods upon due cause shown by the applicant.

3. No permanent addition, other than an enclosed entry or storage building, shall be permitted for a temporary mobile home.

4. Within thirty (30) days of such time as a certificate of occupancy is issued for the permanent dwelling or the expiration of the temporary mobile home permit or any extension thereof, whichever shall occur first, the owner of the parcel on which the mobile home is located shall remove or cause to be removed the temporary mobile home from the parcel.

**§ 100-77 Mobile Home Parks.**

A. A mobile home park shall be located and maintained only in those districts designated as a Planned Unit Development (PUD) as permitted in this chapter and in accord with the standards herein set forth.

B. Any proposal for a mobile home park shall be required to comply with Articles XIII and XVII.

C. Any proposal for a mobile home park shall be required to comply with Part 7 of the New York State Sanitary Code, together with any revisions thereof.

D. All mobile home parks shall obtain an annual operating permit from the CEO. All operating permits shall be effective until December 31 of the calendar year of their issuance. An application for a renewable operating permit shall be made to the CEO sixty (60) days prior to the expiration date of the previous permit. The CEO shall issue or deny such permit in accord with the requirements set forth in this chapter and the established Town of Aurelius Fee Schedule.

E. All existing mobile home parks of record shall comply with these regulations, including the obtaining of an annual operating permit, except that as long as no addition, expansion or alteration of the use or operation is proposed, they shall not be subject to Subsection B of this section. If, however, any addition, expansion or alteration of the existing mobile home park of record is proposed, said addition, expansion or alteration shall be subject to all provisions of this chapter including Subsection B. All existing mobile home parks shall be limited to the number and size of mobile homes presently accommodated at the time of adoption of this chapter, except as they shall meet the minimum requirements set forth herein. In addition, existing parks shall comply in every regard with all applicable building codes and minimum standards for health, sanitation and cleanliness.

**§ 100-78 General Standards.**

In addition to any requirements found elsewhere in this chapter, all mobile homes, including double-wide mobile homes, in the Town of Aurelius, whether existing, temporary or in a mobile home park, shall be subject to the following conditions:

A. The mobile home shall be provided with an approved skirting.

B. The mobile home stand shall provide sewer or a 6” reinforced concrete slab and served by a septic system approved by a licensed professional engineer or architect and approved mobile home tie-downs of the mobile home. The stand shall not heave, shift or settle unevenly under the weight of the mobile home due to frost action, inadequate drainage, vibration, wind or other forces acting on the structure.

C. All mobile homes shall conform to the requirements of the Building Code of New York State. The said Building Code of New York State requirement shall apply to existing mobile homes only to the extent that said code mandates retroactive application.

D. The Town of Aurelius has the right to inspect all mobile home units that are used for rental purposes or occupied by renting tenants.

E. No more than one (1) mobile home or double wide mobile home shall be permitted on a single lot, except as permitted by §100-77 of this chapter.

**ARTICLE XXII**

**CANNABIS ZONING PROVISIONS**

**§ 100-79 Cannabis Retail Dispensaries and Onsite Consumption.**

A. Special Permit Requirement. A Cannabis Retail Dispensary and Onsite Consumption Business shall be permitted in the Commercial and Industrial zoning districts upon the issuance of a special permit by the Town Planning Board. The Town Planning Board shall apply the standards set forth in Section 100-56 of the Zoning Law when considering whether to issue a special permit. An applicant shall adhere to the procedures set for in Section 100-56 of the Zoning Law governing the process to apply for a special permit, including the requirement for a public hearing to allow for comment from members of the community.

B. Minimum Parking Requirements. For each two hundred (200) square feet devoted to merchandising within a Cannabis Retail Dispensary, one parking space shall be required. For each two hundred (200) square feet devoted to merchandising or seating at an Onsite Consumption Business, one parking space shall be required.

C. Impact on Neighboring Properties. The Town Planning Board shall consider the unique potential for excessive traffic, noise, light, glare or other nuisances associated with the Retail Sale of Cannabis Products, due to the anticipated high intensity of the use, potential for crowds and long lines. The Planning Board may require additional buffers and screening in excess of the minimums set forth in the Zoning Law in order to mitigate the above referenced impacts.

D. Time of Operation. A Cannabis Retail Dispensary or Onsite Consumption Business may only operate during the following timeframes: Monday-Saturday 9 a.m. to 9 p.m.; and Sunday 10 a.m. to 6 p.m.

E. Definitions.

1. “Cannabis” means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. It does not include hemp, cannabinoid hemp or hemp.

2. “Cannabis Products” means cannabis, concentrated cannabis, and cannabis-infused products for use by a consumer.

3. “Cannabis Retail Dispensary” means any person or business that engages in the Retail Sale of Cannabis Products, the sale of which requires the issuance of a license under the provisions of New York State Law.

4. “Onsite Consumption Business” means any business which provides space for adults to consume Cannabis products purchased on the same licensed premises.

5. “Retail sale of Cannabis Products” means to solicit or receive an order for, to keep or expose for sale, and to keep with intent to sell, made by any licensed person, whether principal, proprietor, agent, or employee, of any Cannabis or Cannabis Products.



## ARTICLE XXIII

### SHORT-TERM RENTAL USES

#### **§ 100-80 Applicability.**

This section applies to the use of any property as a short-term rental. A “short-term rental” means the rental by a tenant of a dwelling unit, or portion thereof, for a period of less than 30 consecutive days. “Period” includes consecutive terms of rental to the same tenant(s).

#### **§ 100-81 Special Permit Required.**

A. A short-term rental is allowed by special permit in any district that allows a dwelling unit. Prior to using a dwelling unit as a short-term rental, a property owner must obtain a special permit from the Planning Board pursuant to Article XVII of this Code.

B. The special permit must specify the maximum number of guests permitted to occupy the dwelling unit at one time and shall include a drawing of the location of the bedrooms used as short-term rental units. Over-occupancy of a dwelling unit shall be grounds for revocation of the special permit.

C. The special permit must specify the number of off-street parking spaces required to be maintained and shall include a drawing of the location of the parking spaces on the property. The Planning Board must require sufficient off-street parking spaces to accommodate the maximum number of guests specified in the special permit. Failure to comply with the parking requirements shall be grounds for revocation of the special permit.

D. The special permit must specify whether the short-term rental use shall include hosted and/or un-hosted guests. If necessary to protect neighboring properties, the planning board may limit a short-term rental use to hosted guests as a condition to the issuance of a special permit. If the special permit specifies that only hosted guests will be permitted, the owner of the property, or an agent, must be present on the property at all times when it is being used as a short-term rental. If the owner designates an agent to serve as the host for the property, the name and phone number of the agent must be provided to the Code Enforcement Officer. Failure to comply with the hosting requirements shall be grounds for revocation of the special permit.

E. Any special permit allowing a short-term rental use shall be issued on the condition that the Code Enforcement Officer may inspect the property annually for compliance with the New York State Uniform Fire Prevention and Building Codes and the terms of the special permit. The Code Enforcement Officer shall provide reasonable advance notice prior to each inspection. Failure by the property owner obtain an inspection at least once per calendar year may be grounds for revocation of the special permit. The Code Enforcement Officer may waive the inspection requirement, in writing, at his or her discretion, for any given year if deemed unnecessary. Failure to comply with the inspection requirements shall be grounds for revocation of the special permit.

**§ 100-82      Complaints.**

A.      The owner must provide contact information to the Code Enforcement Officer to allow the Code Enforcement Officer to contact the owner, or his or her agent, in the event of a complaint from a nearby property owner.

B.      In the event of a complaint, the owner, or his or her agent, must respond within sixty (60) minutes and present a plan to take remedial action to resolve any complaint deemed valid by the Code Enforcement Officer.

**§ 100-83      Suspension and revocation of special permit.**

A.      A special permit may be suspended or revoked for failure to comply with the terms set forth in special permit or any requirement set forth in this section.

B.      To initiate the process to suspend or revoke the special permit, the Code Enforcement Officer shall issue a notice of intent to suspend or revoke. The notice of intent to suspend or revoke shall describe the violation and require the special permit holder to immediately correct the violation or cause the violation to be corrected.

C.      The notice of intent shall be provided to the permit holder by personal service, by registered or certified mail to the address submitted with the permit application, or by posting on the premises at issue.

D.      If the permit holder fails to immediately correct the violation or cause the violation to be corrected, the Code Enforcement Officer shall suspend or revoke the permit.

E.      A permit holder shall be entitled to request a hearing on suspension or revocation before the Town Zoning Board of Appeals, upon application made to the Town Clerk demonstrating that the permit holder was not in violation. Such hearing shall be requested, in writing, with the request addressed to and received by the Town Clerk within five business days of the permit holder's receipt of the notice of intent or of posting, whichever occurs earlier. Any suspension or revocation remains in effect unless modified by the Town Zoning Board of Appeals. Within 30 days of the permit holder's written request, the Town Zoning Board of Appeals shall hold a hearing to determine whether to reverse the suspension or revocation. The Town Zoning Board of Appeals shall issue its written decision within 15 days after the hearing.

F.      The owner of a dwelling unit for which a short-term rental special permit has been revoked for the first time may not reapply for a new permit until one year after such revocation.

G.      The owner of a dwelling unit for which a short-term rental special permit has been revoked at least once before may not reapply for a new permit until five years after such revocation.

**§ 100-84 Termination of Certain Legal Nonconforming Uses After Amortization.**

The Zoning Board of Appeals may grant special approval for an existing legal non-conforming short-term rental use to continue for a set period of time, without the issuance of a special permit, under the following circumstances:

A. The owner demonstrates that the short-term rental use is a legal nonconforming use; and

B. The owner demonstrates through competent dollars-and-cents proof that prior to the adoption of this law, they made substantial financial expenditures unique to the short-term rental use; and

C. The owner provides documentation of their total receipts from short-term rentals and expected revenue through the date of the adoption of this law; and

D. The owner demonstrates that they have not recovered substantially all of the financial expenditures related to the short-term rental use; and

E. The owner demonstrates that they cannot obtain a reasonable return on their investment unique to the short-term rental use if the property is used for any other purpose permitted within the zoning district, and that the lack of a reasonable return is due solely to adoption of this law rather than other market forces; and

F. The extension period granted by the Zoning Board of Appeals is the minimum extension period necessary to mitigate the demonstrated loss of a reasonable return.

**ARTICLE XXIV**

**MISCELLANEOUS PROVISIONS**

**§ 100-85 Mining or Extraction.**

In any but an industrial or agricultural district, the removal of sod, loam, sand, gravel or quarried stone for sale, except when incidental to or in connection with the construction of a building, shall be permitted only on approval of the Town Board.

**§ 100-86 Refuse Disposal.**

No land in any area shall be used for the commercial disposal of garbage or rubbish by landfill or other method without the written prior approval of the Town Board. No private or residential area shall be used for garbage or rubbish disposal. Disposal of garbage or rubbish must not violate any state health codes or statutes or any town ordinance or local law.

**§ 100-87 Signs.**

A. In residential and agricultural districts, there shall be permitted a bulletin board or sign in connection with permitted uses in these districts and referring only to the use of the

premises or activities carried on within the confines of the premises. Also permitted shall be one (1) sign advertising the sale or rental of the property on which it is located.

B. No sign in any residential or agricultural district shall exceed twelve (12) square feet [six (6) square feet in area for home occupation] in area or be located closer to a road than one-half (½) of the required front yard distance. All signs shall be kept in a safe and neat condition. Nevertheless, farms or other businesses aside from home occupation uses located in agricultural districts may display a sign larger than twelve (12) square feet, but only upon issuance of a special permit by the Zoning Board of Appeals pursuant to § 100-56.

C. In business districts, there shall be permitted for each business conducted on the premises one (1) sign or advertising device attached to the building, subject to the following conditions:

1. The area of the sign shall not exceed one (1) square foot for each linear foot of frontage occupied by the business.

2. Where a building has frontage on more than one (1) street, there may be one (1) sign for each street frontage.

3. In the case of a sign consisting of letters or devices painted on or applied to a building, the area of the sign shall be taken as the area required to circumscribe all such letters or devices.

4. Where a business or type of business is ordinarily identified by a freestanding sign or advertising device, one (1) sign or device, in addition to a sign or signs attached to the building may be permitted on approval of the Town Board.

5. In the case of a sign or device attached to a building at right angles and designed to be read from both sides, the area of one (1) side only need be counted.

6. No sign or device shall overhang any public street or right-of-way.

7. No portable or temporary signs on the exterior of a structure or on the premises are permitted, except for signs on buildings during their construction period. This prohibition includes banners, pennants and similar devices.

8. No sign or device shall be illuminated so as to constitute a hazard to safety or health, or to distract motorists on public highways, or so as to affect adversely neighboring property or the occupants thereof.

9. Flashing, blinking, scripting or noise emitting signs are prohibited in all zoning districts.

10. Any signs or advertising devices existing at the time this chapter becomes effective and not conforming to the provisions thereof shall be removed or made to conform within six (6) months of the date that this chapter becomes effective.

11. No permanent or temporary sign shall be placed in a public highway right-of-way or on public property without written authorization from the permitting agency or entity responsible for operation and maintenance of the public property or right-of-way.

**§ 100-88 Home Occupations.**

A. Home occupations are permitted only in those districts as specified in this chapter and shall conform to the following conditions:

1. Such home occupation is customarily carried on in a dwelling unit; and
2. Such home occupation is carried on by a member of the family residing in the dwelling unit; and
3. Such home occupation conforms to the following additional conditions:
  - a. The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto.
  - b. Home occupations in accessory structures shall not exceed 30% of the floor area of the principal residential structure.
  - c. There shall be no exterior display or exterior sign larger than six (6) square feet, no exterior storage or materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.
  - d. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.

B. In particular, a home occupation includes but is not limited to the following: dressmaking, laundering, home cooking, teaching (musical or art instruction limited to no more than six pupils per day), antique shops, barbershops, beauty parlors, bed-and-breakfast establishments and the skilled practice by an accountant, architect, artist, dentist, doctor, engineer, insurance agent, lawyer, musician, realtor or member of any other profession within a dwelling occupied by the same. However, a home occupation shall not be interpreted to include the following: commercial stables and kennels, restaurants and tearooms, musical instruction to groups, dancing instruction, short-term rental, convalescent homes, mortuary establishments and other trades and businesses of a similar nature. If any home occupation use is discontinued for one (1) continuous year, a new application to resume the use must be made. In any event, the home accommodating the home occupation use must be occupied by the fee owner and must not be leased or rented to another.

**§ 100-89 Solar Law.**

A. Authority. This Solar Energy Law is adopted pursuant to sections 261-263 of the New York Town Law and section 20 of the Municipal Home Rule Law of the State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and, in accordance with the Town Law of

New York State, “to make provision for, so far as conditions may permit, the accommodation of Solar Energy Systems and equipment and access to sunlight necessary therefor.”

B. Purpose. This Solar Energy Law is adopted with the following objectives:

1. To take advantage of a safe, abundant, renewable, and non-polluting energy resource;
2. To promote effective and efficient use of solar energy systems;
3. To promote the location of solar energy systems within agricultural lands in a manner that preserves the rural character of the Town of Aurelius;
4. To enhance the agricultural viability of the Town by preserving productive agricultural land resources by mitigating the impacts of solar energy systems on important agricultural lands, including, but not limited to, active farmlands, prime soils (including USDA prime soils), mapped prime farmlands, and farmland of statewide importance;
5. To avoid, to the maximum extent practicable, installation on agricultural lands consisting of highly productive soils (i.e., prime farmland soils and soils of statewide importance) as identified by the United States Department of Agriculture-Natural Resources Conservation Service (USDA- NRCS)
6. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;
7. To mitigate the impacts of solar energy systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources;
8. To establish provisions for the placement, design, construction, operation and removal of such solar energy systems;
9. To regulate the physical characteristics of any solar energy system in order to mitigate potential impacts to Town residents.

C. Definitions. The defined terms below shall apply to this § 100-89 Solar Law.

1. Applicant. The person or entity filing an application under this Solar Law.
2. Community Solar Energy System. A Commercial Solar Project which has a Nameplate Capacity of not more than 5 MW.
3. Farmland of Statewide Importance. A land, in addition to prime farmlands, that is of statewide importance for the production of food, feed, fiber, forage, and oil seed crops as determined by the appropriate state agency or agencies. Farmlands of statewide importance may include tracts of land that have been designated for agriculture by state law.

4. Glare. The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

5. Kilowatt (kW). A unit of power equal to 1,000 watts which is often used to describe the Nameplate Capacity of residential or commercial solar energy systems.

6. Large Scale Solar Energy System. A Commercial Solar Project which has a Nameplate Capacity of more than 5MW but less than 25 MW.

7. Megawatt (MW). A unit of power equal to 1,000 kW which is often used to describe the Nameplate Capacity of larger scale solar energy systems.

8. Nameplate Capacity. A solar energy system's maximum electric power output under optimal operating conditions.

9. Prime Farmland. Agricultural lands consisting of highly productive soils as identified by the United States Department of Agriculture-Natural Resources Conservation Service (USDA- NRCS) as land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops, and is also available for these land uses (or as designated through alternative available resources such as the NYS Department of Agriculture and Markets Soil Groups 1 through 4). The parameters for Prime Farmland are national. Soils must meet specific criteria with respect to a number of soil properties, including temperature, moisture regime, erodibility, pH, water table, permeability, rock fragment content, and others as described in the National Soil Survey Handbook.

10. Solar Energy System: The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. A Solar Energy System is classified as follows:

a. **Building Integrated Solar Energy System**. A photovoltaic generating component which forms an integral and essential part of a permanent building structure producing power directly for the on-site end users (such as individual residential dwellings or businesses).

b. **Rooftop Mounted Solar Energy System**. A photovoltaic generating system which includes solar panels mounted on the rooftop of a permanent building structure.

c. **Ground Mounted Solar Energy System**. A photovoltaic generating system which is secured to the ground via a pole, ballast system, or other mounting system; is detached from any other structure; and which is for the primary purpose of producing electricity for onsite consumption.

d. **Commercial Solar Energy System**. Any solar energy product, including Community Solar Energy Systems, Large Scale Solar Energy Systems, or Utility Scale Solar Energy Systems, where the entity

constructing or operating the solar energy project is producing electric power primarily to off-site end users intended to generate profit.

11. Solar Energy Equipment. Electrical material, hardware, inverters, conduit, energy storage devices, or other electrical and photovoltaic equipment associated with the production and storage of electricity.

12. Utility Scale Solar Energy System. A Commercial Solar Project which has a Nameplate Capacity of more than 25 MW.

D. Permitted Locations.

1. No Solar Energy System or device shall be installed or operated in the Town of Aurelius, except in compliance with this section.

**TABLE 1. Summary of Permitted Solar Energy Systems by Zoning District**

<i>Zoning District</i>	<b>Solar Energy System</b>			
	Building Integrated	Roof-Mounted	Ground-Mounted	Commercial
A	P	P	P*	SUP
AR	P	P	P*	SUP
R	P	P	P*	SUP
C	P	P	P*	SUP
I	P	P	P*	SUP
PUD	P	P	P*	SUP
RH	P	P	NP	NP
H-O	P	P	NP	NP
C-O	P	P	NP	NP
RR	P	P	NP	NP

*P – Permitted with Building Permit, SUP – Special Use Permit with Site Plan Review, NP – Not Permitted*

*\* - Projects which exceed thresholds as defined in §100-89 G will require SUP with Site Plan Review*

E. General Requirements for all Solar Energy Systems.

1. All solar energy system installations shall be performed by a qualified solar installer.

2. Solar energy systems, unless part of a Commercial Solar Project, shall be permitted only to provide power for use by owners, lessees, tenants, residents or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit the sale of excess power through a net-metering arrangement in accordance with New York Public Service Law § 66-j or similar state or federal statute. However, solar



energy system applications in a residential setting and serving a residential use on a single parcel or lot shall be limited to 25 kW or 110% of energy consumed on the site in the prior 12 months. Solar energy system applications serving an associated commercial or industrial use shall be limited to no more than 110% of the energy consumed on the site in the prior 12 months unless the Application can demonstrate a need to exceed the threshold. In the event the project exceeds the 110% threshold, such project will be subject to Special Use Permit.

3. Prior to operation, all electrical connections must be inspected by the CEO and by an appropriate electrical inspection person or agency, as determined by the CEO.

4. Any connection to the public utility grid must be inspected by the appropriate public utility, and proof of inspection must be provided to the CEO.

5. Solar energy systems must be maintained in good working order at all times.

6. Solar energy systems shall be permitted only if the Town is able to determine that such solar energy system does not present any unreasonable safety risks.

7. All solar energy systems described in this article shall meet and comply with all relevant and applicable provisions of the New York State Uniform Fire Prevention and Building Code standards. To the extent the provisions of the New York State Uniform Fire Prevention and Building Code are more restrictive than the provisions set forth in this article, the provisions of the New York State Uniform Fire Prevention and Building Code shall control.

8. The application for any solar energy system shall specifically recite the use or nonuse of solar storage batteries, their placement, capacity, and compliance with all existing New York State and federal rules and regulations. If solar storage batteries are included as part of the solar energy system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform Fire Prevention and Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of the Town and other applicable laws and regulations.

9. All utility services and electrical wiring/lines shall, to the maximum extent feasible, be placed underground unless otherwise approved due to site constraints. The installation of new or modification of existing above-ground utility poles should be minimized to the maximum extent feasible.

10. To the extent practicable, solar energy systems shall have neutral, nonreflective paint colors, materials and textures to achieve visual harmony with the surrounding area.

11. The design, construction, operation and maintenance of the solar energy system shall prevent the direction, misdirection and/or reflection of solar rays onto neighboring properties, public roads, public parks and public buildings. All panels and supporting structures shall utilize materials and colors that are nonreflective in nature.

12. Prior to the time of the issuance of a solar building or construction permit, the Application/owner shall demonstrate to the Code Enforcement Officer a reliable and safe master method for the deenergizing of the solar energy system in the event of an emergency.

13. Maintenance and Inspections. The land, structures, and equipment associated with all Solar Energy Systems shall be maintained in good condition in accordance with all requirements of this section. Upon reasonable notice to the owner, the CEO shall have the right at any reasonable time to enter the premises on which a Solar Energy System is constructed to inspect all parts of the installation and require that repairs or alterations be made if in his/her judgment there may be a deficiency in the operation or the structural stability of the system. If necessary, the CEO may order the system to be secured or to cease operation. If the Code Enforcement Officer has reason to believe that an emergency situation involving danger to life or property exists, the CEO may enter the premises for purposes of inspecting the system without notifying the owner in advance and order immediate correction.

F. Building Integrated Solar Energy Systems.

1. Districts Where Allowed. Building-integrated solar energy systems shall be permitted in all zoning districts within the Town, subject to the following requirements:

a. A building permit shall be required for installation of all Building Integrated Solar Energy Systems.

b. Any Building Integrated Solar Energy System which includes a rooftop installation shall be required to be referred to the CEO for a full technical review.

2. Building Integrated Solar Energy Systems shall be subject to the general requirements set forth at § 100-89(E).

3. Submittal Requirements and Fees.

a. At the time of application, unless waived by the CEO, the following documents shall be submitted:

i. Equipment specification sheets and documentation with sufficient details to demonstrate that the solar energy system meets the requirements of this code.

b. Fees. The Applicant shall deliver the fee amount as determined in the Town of Aurelius Fee Schedule.

G. Rooftop Mounted Solar Energy Systems.

1. Districts Where Allowed. Rooftop-mounted solar energy systems shall be permitted in all zoning districts within the Town, subject to the following requirements:

a. A building permit shall be required for installation of all Rooftop Mounted Solar Energy Systems.

b. Height. Rooftop Mounted Solar Energy Systems shall not exceed the maximum allowed height of the principal use in the zoning district in which the system is located and shall specifically prohibit solar racking systems extending from the roof surface more than 18 inches on sloped roofs when measured from average grade of roof surface at maximum height and no more than six (6) feet on a flat roof. Rooftop Mounted Solar Energy Systems with greater increase in overall height of the structure than specified herein, shall require Site Plan Approval.

c. Access. In order to ensure firefighter and other emergency responder safety, there shall be a perimeter area around the edge of the roof and structurally supported pathways to provide space on the roof for walking around all Rooftop Mounted Solar Energy Systems. Additionally, installations shall provide for adequate access and spacing in order to:

- i. Ensure access to the roof.
- ii. Provide pathways to specific areas of the roof.
- iii. Provide for smoke ventilation opportunity areas.
- iv. Provide for emergency egress from the roof.

v. Exceptions to these requirements may be requested where access, pathway or ventilation requirements are reduced due to: (AA) Unique site-specific limitations; (BB) Alternative access opportunities (such as from adjoining roofs); (CC) Ground level access to the roof area in question; (DD) Other adequate ventilation opportunities when approved by the CEO; (EE) Adequate ventilation opportunities afforded by panels set back from other rooftop equipment (for example: shading or structural constraints may leave significant areas open for ventilation near HVAC equipment); (FF) Automatic ventilation devices; or (GG) New technology, methods or other innovations that ensure adequate emergency responder access, pathways and ventilation opportunities.

vi. In the event of any of the standards in § 100-89(G)(1)(c) are more stringent than the New York State Uniform Fire Prevention and Building Code, they shall be deemed to be installation guidelines only, and the standards of the Code shall apply.

2. Rooftop Mounted Solar Energy Systems shall be subject to the general requirements set in § 100-89(E).

3. Submittal Requirements and Fees.

a. At the time of application, unless waived by the CEO, the following documents shall be submitted:

i. Site Plan progressed to include sufficient details to demonstrate that the solar energy system will be installed in accordance with the requirement of this code including, but not limited to, access, height, dimensions, connections, etc.

ii. Equipment specification sheets

b. Fees. The Applicant shall deliver the fee amount as determined in the Town of Aurelius Fee Schedule.

4. Non-conformance. If a Roof Mounted Solar Energy System is to be installed on any Building or Structure that is nonconforming because its height violates the height restrictions of the zoning district in which it is located, the Solar Energy System shall be permitted, so long as it does not extend above the highest point of the roof to which it is mounted and so long as it complies with the other provisions of this section.

#### H. Ground Mounted Solar Energy Systems.

1. Districts Where Allowed. Ground Mounted Solar Energy Systems are permitted as accessory structures in Agricultural District (A), Agricultural Residential District (AR), Residential District (R), Commercial District (C), Industrial District (I), and Planned Development District (PUD) subject to the following requirements:

a. A building permit shall be required for installation of all ground-mounted solar energy systems.

b. A Special Permit and Site Plan Review shall be required for any Ground Mounted Solar Energy System where the size exceeds the size of the largest structure on the lot.

c. Notwithstanding any other provision of this chapter, Ground-Mounted Solar Energy Systems are prohibited in all front yards and all lake abutting yards (front or rear yards with physically adjacent lake frontage but not including side yards). In cases of side yard placement, the Application shall demonstrate mitigation of any visual impacts of such placement to address the surrounding vantage points.

d. Setbacks. Further setbacks, area and yard requirements and bulk restrictions may be required by the Planning Board in addition to those set forth in § 100-89(H)(1)(c) above, in order to protect the public's safety, health and welfare.

e. Height. The height of the solar collector/panel and any mounts shall not exceed 20 feet when oriented at maximum tilt measured from the ground (average grade) and including any base.

f. Where site plan approval is required, a Ground Mounted Solar Energy System shall be screened to the maximum extent feasible from adjoining lots and street rights-of-way through the use of architectural features, earth berms, landscaping, fencing or other screening which will harmonize with the character of the property and the surrounding area. Where sufficient screening of aesthetic impact is considered to be infeasible, additional set-backs beyond those required by § 100-89(H)(1)(c) may be imposed at the discretion of the Planning Board.

g. The total surface area of all Ground Mounted Solar Energy System components shall not exceed the area of the ground covered by the largest building on the lot measured from the exterior walls, excluding patios, decks, balconies, screened and open porches, and attached garages.

h. The surface area of the Ground Mounted Solar Energy System shall be included as coverage in calculating whether the lot meets the maximum permitted lot coverage requirements for the applicable zoning district.

i. The applicable criteria for site plans as set forth in Article XVII shall be demonstrated for each application.

2. Districts Where Prohibited. Ground Mounted Solar Energy System shall be prohibited in the following zoning districts: Rural Hamlet District (RH), Highway Overlay District (H-O), Land Conservation Overlay District (C-O), River Road Residential District (RR).

3. Submittal Requirements and Fees.

a. At the time of application, unless waived by the CEO, the following documents shall be submitted:

i. Site Plan progressed to include sufficient details to demonstrate that the solar energy system will be installed in accordance with the requirement of this code including, but not limited to, setbacks, screening/buffering, access, height, dimensions, connections, etc.

ii. Equipment specification sheets.

b. Fees. The Applicant shall deliver the fee amount as determined in the Town of Aurelius Fee Schedule.

I. Commercial Solar Energy Systems.

1. Districts Where Allowed. Subject to the issuance of site plan approval and a special permit and other requirements as set forth herein, Commercial Solar Projects shall be a permitted use in zoning districts: Agricultural District (A), Agricultural Residential District (AR), Residential District (R), Commercial District (C), Industrial District (I), and Planned Development District (PUD) within the Town.

2. Districts Where Prohibited. Commercial Solar Projects shall be prohibited in the following zoning districts: Rural Hamlet District (RH), Highway Overlay District (H-O), Land Conservation Overlay District (C-O), River Road Residential District (RR).

3. Site Plan Review. No Commercial Solar Project may be approved without Site Plan Review by the Planning Board in accordance with the procedures and timelines set forth in §100-55. The following submission requirements must be considered in reviewing a site plan application for a Commercial Solar Project.

a. A completed application form for the approval of a Commercial Solar Project.

b. Proof of ownership, control, or the written consent that the Application is authorized by the landowner to make such site plan application. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.

c. Plans and drawings of the proposed Commercial Solar Project installation signed and stamped by a professional engineer registered in New York State showing the proposed layout of the entire Commercial Solar Project along with a description of all components, whether on-site or off-site, existing vegetation and proposed clearing and grading of all sites involved, along with proposed screening and fencing. Clearing and/or grading activities are subject to review by the Planning Board and shall not commence until the issuance of site plan approval and written authorization from the CEO. The plans and development plan shall be drawn in sufficient detail and shall further describe:

i. Property lines and physical dimensions of the proposed site, including contours at a minimum of two-foot intervals.

ii. Location, approximate dimensions and types of all existing structures and uses on the site.

iii. Location and elevation of the proposed Commercial Solar Project and all components thereof.

iv. Location of all existing aboveground utility lines within 1,000 linear feet of the site.

v. All transmission lines and wiring associated with a Commercial Solar Project shall be buried underground and include necessary encasements in accordance with the National Electrical Code and any State or local requirements. The Planning Board may recommend waiving this requirement if sufficient engineering data is submitted by the Application demonstrating that underground transmission lines are not feasible or practical. The Application is required to show the locations of all proposed overhead electric utility/transmission lines (if permitted) and underground electric utility/transmission lines, including substations and junction boxes, and other electrical components for the project, on the site plan.

vi. Site slope analysis. Such drawing shall demarcate slopes greater than 5%, 10%, 15%, 20%, and 25% within the limits of disturbance.

vii. Landscape plan showing all existing natural land features, trees, forest cover and all proposed changes to these features, including size and type of plant material, and for screening purposes. The plan shall show any trees and/or vegetation which is proposed to be removed for purposes of providing greater solar access. No more than twenty

percent (20%) of the sites existing forested area shall be removed in order to accommodate a solar facility.

viii. Perimeter screening shall be provided such that the visual impact of the solar arrays is mitigated to the satisfaction of the Planning Board. Based on site specific conditions, such as topography, adjacent structures, roadways, and natural vegetative screening, all reasonable efforts shall be made to minimize visual impacts to all identified vantage points (e.g., residential properties, public roads and sites, viewsheds and other vistas) by preserving to the maximum extent feasible the existing natural vegetation, installing decorative fencing as appropriate, creating berm structures and/or providing landscaping of sufficient size, type and variety to create a natural looking vegetative barrier.

ix. A geotechnical report with boring log and permeability results demonstrating to the satisfaction of the Planning Board that the design of proposed elements (e.g., piles, footers, stormwater practices, etc.) is sufficient based on-site specific data. For sites within an Agricultural District, the geotechnical report shall include a soil analysis which provides measurements of soil samples for permeability, organic content, and nutrient content for use as a baseline for comparison at the end of the life of the project. The Decommissioning Plan shall require an updated analysis upon decommissioning of the project, which analysis shall include a comparison of pre- and post-development soil conditions, concerning the chemical and physical properties of the soil.

x. For sites within an Agricultural District, include soils map including active farmlands, prime soils (including USDA prime soils), mapped prime farmlands and farmland of statewide importance, with supporting description of site historical agricultural use.

xi. Submission of a written operation and maintenance plan for the proposed Commercial Solar Project that include measures for maintaining safe access, operational maintenance of the Commercial Solar Project, and general property upkeep, such as mowing and trimming, and an agricultural soils preservation plan if applicable. The operation and maintenance plan shall be filed and recorded by the Application in the Cayuga County Clerk's office (indexed to the property) following approval of the site plan by the Planning Board.

d. Submission of a written operation and maintenance plan (O&M Plan) for the proposed Commercial Solar Project that include measures for maintaining safe access, operational maintenance of the Commercial Solar Project, and general property upkeep, such as mowing and trimming, and an agricultural soils preservation plan if applicable. The O&M Plan shall include a timeframe for the replacement of dead/diseased trees/shrubs and will include a requirement to notify the Town within 30 days of the change of control of the site. The O&M Plan shall be filed and recorded by the Application in the Cayuga County Clerk's office (indexed to the property) following approval of the site plan by the Planning Board. The owner/operator will be required to enter into a legally binding Maintenance Agreement for ongoing implementation of the plan while the Solar Energy System is operational.

e. Visual Impact Analysis.

i. A digital elevation model-based project visibility map showing the impact of topography upon visibility of the project from other locations within 2 miles from the center of the project to aid in the selection of impacted vantage points.

ii. Photographic simulations shall be included showing the proposed Commercial Solar Project, including elevation views with dimensions in accordance with the manufacturer's specifications and photos of the proposed solar energy system, solar collectors, solar panels and all other components comprising the Commercial Solar Project from all neighboring properties and from other vantage points, all as selected by the Planning Board. Such photos will depict before-and-after simulations showing the extent of mitigation from vantage points selected by the Planning Board.

iii. No fewer than four color photos taken from locations, as selected by the Planning Board and computer-enhanced to simulate the appearance of the as-built aboveground Commercial Solar Project components as they would appear from these locations.

f. Glare Hazard Analysis is required to determine potential glint and glare impacts to adjacent roadways and airports at selected hourly increments (including seasons) at full tilt in both directions.

g. Documentation of access to the project site(s), including current and proposed location of all access roads, gates, parking areas, etc.

h. A plan for clearing and/or grading of the site and a stormwater pollution prevention plan (the "SWPPP") for the site.

i. Decommissioning Plan in accordance with § 100-89(I)(15).

j. Equipment specification sheets for all major components.

k. Documentation of utility notification.

l. NYS Agriculture and Markets findings and report, if applicable.

m. U.S. Army Corps of Engineers wetlands determination, if applicable.

n. Detail and specifications for all gates and/or fencing. Commercial Solar Projects shall be enclosed by perimeter fencing to restrict unauthorized access, with "HIGH VOLTAGE" placards affixed every 100 feet, and as otherwise approved by the Planning Board. Style and type of fence shall be approved by the Planning Board as part of the site plan. Fence height shall be established at a minimum of seven feet, subject to Planning Board approval. Unless waived by the Planning Board Security, fencing shall be wildlife friendly with minimum 6 foot clearance that allows the passage of small mammals and reptiles designed to minimize wildlife injury and death due to entanglement,



o. Sign-off from first responders/emergency medical service providers.

p. The design, construction, operation and maintenance of the solar energy system shall prevent the direction, misdirection and/or reflection of solar rays onto neighboring properties, public roads, public parks and public buildings.

q. Artificial lighting of Commercial Solar Projects shall be limited to lighting required for safety and operational purposes, shall be shielded from all neighboring properties and public roads.

r. Part I full environmental assessment form for purposes of environmental review under the New York State Environmental Quality Review Act (“SEQRA”).

s. The Application shall submit details of the proposed noise that may be generated by solar inverter fans or other Commercial Solar Project components. The Planning Board may require a noise analysis to determine potential adverse noise impacts. In no instance shall noise exceed 50 decibels as measured from the subject parcel’s property line.

4. Special Permit Required. No Commercial Solar Project may be approved without issuance of a special permit by the Planning Board. In addition to the criteria set forth in § 100-56, the following criteria are hereby established for purposes of granting a special permit for a Commercial Solar Project under this Chapter:

a. A Commercial Solar Project shall not be installed in any location that would materially detract from or block the view(s) of all or a portion of a recognized scenic view, as viewed from any public road, right-of-way or publicly owned land within the Town or that extends beyond the border of the Town. Consideration shall be given to any relevant portions of the current, amended and/or future Comprehensive Plan and/or any other prior, current, amended and/or future officially recognized Town planning document or resource.

b. The Application shall demonstrate the existence of adequate emergency/safety measures. The Application shall post an emergency telephone number so that the appropriate entities may be contacted should any solar panel or other component of the Commercial Solar Project need immediate repair or attention. This emergency telephone number should be clearly visible and in a location which is convenient and readily noticeable to someone likely to detect a problem. The manufacturer’s or installer’s identification and appropriate warning signage shall be posted at the site and be clearly visible.

c. All Commercial Solar Projects shall be secured to restrict unauthorized access.

d. Where necessary, constructing any roadways necessary to access the Commercial Solar Project, such roadway shall be constructed in a way that allows for the passage of emergency vehicles. Each application shall be accompanied by correspondence from the responding fire department and emergency care provider as to the acceptability of the

proposed ingress to and egress from the Commercial Solar Project site. Access roads shall be designed to be permeable to encourage proper drainage and reduce runoff.

e. The development and operation of the Commercial Solar Project shall not have a significant impact on fish, wildlife, animal or plant species or their critical habitats, or other significant habitats identified by federal or state regulatory agencies.

f. In reviewing the application for a special permit, the Planning Board shall strive to permit the location of Commercial Solar Projects in such a manner so that no one area or neighborhood in the Town shall be overburdened by the placement of any proposed Commercial Solar Project(s). Screening, including plantings, berms, and other screening methods, may be required to mitigate any unavoidable impacts. Such plantings and screening shall be continuously maintained and replaced if dead, dying, or falling into disrepair.

g. The Planning Board may, in its discretion, require native ground cover, under and between the rows of solar panels, which is suitable for animal grazing and/or pasturing shall be low-maintenance, drought-resistant, non-fertilizer-dependent and shall be pollinator-friendly to provide a habitat for bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

h. The Planning Board may, in its discretion, waive one or more of the submission requirements imposed herein.

5. A building permit shall be required for the installation of a Commercial Solar Project.

6. Lot Area, Yard and Other Regulations. The following lot area, yard regulations and siting criteria shall apply to Commercial Solar Projects.

a. Maximum height: 20 feet.

b. Minimum lot area: 30 acres.

c. Minimum front yard setback to fence: 200 feet.

d. Minimum rear yard setback to fence: 200 feet.

e. Minimum side yard setback to fence: 200 feet.

f. Commercial Solar Projects that are contiguous to wetland areas shall, at a minimum, conform to the setback requirements mandated by either the New York State Department of Environmental Conservation or the U.S. Army Corps of Engineers. Said setback(s) may be varied based upon information that may be required by the Planning Board and supported by appropriate submissions that may require a greater setback. Setbacks will be determined on a case-by-case basis and a proper record supporting any such greater setback requirement shall be established as part of the review process.

g. Commercial Solar Projects will be set back at least 1,000 feet of any lake.

h. Each Commercial Solar Project application shall demonstrate that the facility operator owns or controls sufficient land area to properly operate and maintain the facility.

i. To prevent the oversaturation of Commercial Solar Projects in one area of the Town, no Commercial Solar Project shall be approved if it is within one mile of an already approved Commercial Solar Project unless the Planning Board makes specific findings that it will not have a significant impact on the community character of the area.

j. When Application is unable to meet siting and/or mitigation requirements, each application shall formally address and assess the availability and feasible use of alternative sites if less objectionable.

7. Payment in Lieu of taxes (“PILOT”) Agreement and Host Community Agreement.

a. In every instance of a Commercial Solar Project application, the Application shall be required to propose a PILOT agreement. The developer shall also comply with the notice requirements of NYS Real Property Tax Law § 487. The Application will then contact the Town’s attorney to negotiate the terms of said agreement.

b. In addition to a PILOT agreement, the Application shall propose to the Town, on projects involving one megawatt and above, a host community agreement benefit package for consideration by the Town Board as part of the approval process. Once the application package materials are deemed complete and while the Planning Board is completing its reviews, the project/application shall be referred to the Town Board to decide on the completion and terms of a host community agreement. This agreement shall be in addition to a PILOT agreement.

8. Public Hearing. No action shall be taken by the Planning Board to issue site plan approval or a special permit until after public notice and a public hearing. Proper notice of a hearing before a board shall be given by legal notice published in the official newspaper of the Town at least five days before the date set for such public hearing(s) and written notice mailed to the Application or his agent at the address given in the application to be considered. The Application shall be responsible for notifying, by certified mail, all property owners of record within 500 feet of the outside perimeter of the boundary line of the property involved in the application, as well as other property owners deemed by the Planning Board to be potentially impacted by the project, of the time, date and place of such public hearing at least 10 days prior to such hearing. Notice shall be deemed to have been given if mailed to the property owner at the tax billing address listed on the property tax records of the Town Assessor or at the property address.

9. Compliance with New York State Uniform Fire Prevention and Building Code.

a. Building permit applications shall be accompanied by standard drawings of structural components of the Commercial Solar Project and all its components (including but not limited to solar panel, solar collector, solar energy system, etc.). Drawings and any necessary calculations shall be certified, in writing, by a New York State registered professional engineer that the system complies with the New York State Uniform Fire Prevention and Building Code. This certification would normally be supplied by the manufacturer.

b. Where the structure, components or installation vary from the standard design or specification, the proposed modification shall be certified by a New York State registered professional engineer for compliance with the structural design provisions of the New York State Uniform Fire Prevention and Building Code.

10. Compliance with State, Local and National Electrical Codes.

a. Building permit applications shall be accompanied by a line drawing identifying the electrical components of the Commercial Solar Project to be installed in sufficient detail to allow for a determination that the manner of installation conforms with the National Electrical Code. The application shall include a statement from a New York State registered professional engineer indicating that the electrical system conforms with good engineering practices and complies with the National Electrical Code, as well as applicable state and local electrical codes. This certification would normally be supplied by the manufacturer. All equipment and materials shall be used or installed in accordance with such drawings and diagrams.

b. Where the electrical components of an installation vary from the standard design or specifications, the proposed modifications shall be reviewed and certified by a New York State registered professional engineer for compliance with the requirements of the National Electrical Code and good engineering practices.

11. Following construction/installation of the Commercial Solar Project, all disturbed areas where soil has been exposed shall be reseeded with grass and/or planted with low-level vegetation capable of preventing soil erosion and airborne dust and demonstrating established growth. Every operations and maintenance plan shall include provisions for reseeded and maintaining established growth.

12. Post-construction / Installation Certification. Following construction/installation of the Commercial Solar Project, all disturbed areas where soil has been exposed shall be reseeded with grass and/or planted with low-level vegetation capable of preventing soil erosion and airborne dust and demonstrating established growth. Every operations and maintenance plan shall include provisions for reseeded and maintaining established growth. Following the construction / installation of the Commercial Solar Project, the Application shall provide a post-construction/installation certification from a professional engineer registered in New York State that the project complies with any and all applicable

codes and industry practices and has been constructed and operating according to the drawings and development plan(s) submitted to the Town.

13. Inspections. The CEO and any other employee or agent of the Town shall have the right at any reasonable time to enter, in the company of the owner or its agent, the premises on which a Commercial Solar Project is being or is constructed, to inspect all parts of said Commercial Solar Project installation and require that repairs or alterations be made if, in their judgment, there exists a deficiency in the operation or the structural stability of the Commercial Solar Project or any component thereof. If necessary, the CEO may order the system secured or to otherwise cease operation. It shall not be required that the owner or agent be present in the event of an emergency situation involving danger to life, limb or property. Any inspections required by the Town that are beyond its scope or ability shall be at the expense of the Solar Energy Applicant and/or the Owner/Operator.

14. Power to Impose Conditions. In granting any site plan approval, special permit or variance for a Commercial Solar Project, the Planning Board may impose reasonable conditions to the extent that such board finds that such conditions are necessary to minimize any adverse effect or impacts of the proposed use on neighboring properties and to protect the general health, safety and welfare of the Town.

15. Abandonment and Surety.

a. A Commercial Solar Energy System shall be deemed to be abandoned after it has ceased operating for a continuous one (1) year period at which time, the Town may notify the owner and/or operator of the facility to implement the Decommissioning Plan within one-hundred and eighty (180) days.

b. In the event that construction of the Commercial Solar Energy System has been started but is not completed and functioning within eighteen (18) months of the issuance of the Building Permit, the Town may notify the operator and/or the owner to complete installation of the facility within three-hundred and sixty-five (365) days. If the owner and/or operator fails to perform, the Town may require the owner and/or operator to implement the Decommissioning Plan.

c. Applications for extensions of the time periods set forth in this subsection of no greater than ninety (90) days shall be reviewed by the CEO.

d. If the owner and/or operator fails to fully implement the Decommissioning Plan within the prescribed time period and restore the site as required, the Town may use the financial surety posted by the owner and/or operator to decommission the site.

e. Any costs incurred by the Town shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officer and in the same manner as other taxes.

f. Decommissioning Bond. Prior to issuance of a Building Permit for a Commercial Solar Project, the owner or operator of the project shall post a surety in an amount and form acceptable to the Town for the purposes of removal in the event the facility is abandoned. The amount of the surety required under this section shall be 125% of the projected cost of removal of the facility and restoration of the property with a minimum escalator of 2% annually for the life of the project. Acceptable forms shall include, in order of preference; cash; irrevocable letter of credit; or a bond that cannot expire; or a combination thereof. Such surety will be used to guarantee removal of the Commercial Solar Project should the system be abandoned. The surety amount may be reviewed and adjusted, as necessary, by the Town at five-year intervals.

16. Decommissioning and Removal of Commercial Solar Project Facilities. The applicant for a Commercial Solar Project shall submit a Decommissioning Plan and Cost Estimate. The following shall be the minimum requirements to be addressed for the decommissioning of every Commercial Solar Project, as determined by the Planning Board and Town Attorney:

- a. Lease start/end date.
- b. Removal of above-ground and below-ground equipment, structures and foundations.
- c. Restoration of the surface grade and soil after removal of equipment.
- d. Revegetation of restored soil areas with native seed mixes, excluding any invasive species.
- e. A time frame for the completion of site restoration work. Such time frame may not exceed 365 days.
- f. Soil remediation in accordance with the New York State Department of Agriculture and Markets Guidelines for Solar Energy Mitigation
- g. Requirement to return the site to its pre-development condition. A pre-development photo log of existing site conditions shall be included.
- h. Unless required by the CEO, all landscaping and vegetative screening is to remain in place following decommissioning.
- i. Disposal of hazard materials in accordance with state and federal laws.
- j. An adequate decommissioning bond or other form of security. The decommissioning cost estimate shall be site specific, based on estimated quantities and unit rates for the removal, transport and disposal of components to a specified disposal facility. The cost estimate shall assume prevailing wage rates and shall not include salvage value.

k. Replanting/replacement of trees destroyed or lost in the decommissioning process with a species that will be capable of reestablishment after 25 years from planting (for those trees installed by the developer).

l. Specifically address: the useful lifespan of proposed solar facility and any storage batteries; the current New York State and federal rules and regulations regarding placement thereof and disposal thereof at the end of their useful lifespan; together with plans for replacement of solar storage batteries.

m. Requirement for geotechnical and/or soil analysis upon decommissioning of the Commercial Solar Project, including comparison of pre- and post-development soil conditions, concerning the chemical and physical properties of the soil.

n. Such decommissioning plan shall be executed by the Application and the property owner and shall be recorded against the property in the Cayuga County Clerk's office.

17. Fees. The applicant shall deliver the fee amount as determined in the Town of Aurelius Fee Schedule. It shall be the Applicant's responsibility to reimburse the Town for any and all reasonable and necessary legal, engineering and other professional fees incurred by the Town in reviewing and administering an application and operation of a Commercial Solar Project under this article.

a. The Applicant for either state or local siting approval shall deliver, along with its application for a Commercial Solar Energy System if local approval is sought, and concurrent with the filing of a New York State Executive Law § 94-c Permit Application, if applicable, an amount specified in the Town of Aurelius Fee Schedule, then in effect. This sum shall be held by the Town in a non-interest-bearing account to be administered in accordance with the following:

i. These funds shall be available to pay consultants and attorneys engaged by the Town to assist in application review if a local permit is sought, and in review of a Section 94-c Permit Application should awarded intervener funds be insufficient and/or otherwise exhausted.

ii. Escrow funds may be used to pay consultants engaged by the Town to undertake periodic construction inspections and/or corrective action required to address deficiencies identified within the Engineer's construction inspection report, including but not limited to deficiencies related to erosion and sediment control.

iii. Funds may also be used to pay contractors engaged by the Town to undertake corrective actions for sites that are operating in violation of their site specific SWPPP, and/or which have not corrected issues identified within the Engineer's construction inspection report by the Owner/Operator within seven days of notification.

iv. Following the grant or denial of the state or local application, and/or following the final construction inspection, the Town shall return to the Applicant any excess remaining in escrow. If the escrow account has been depleted throughout

the duration of the review and/or construction inspection period, the Applicant shall replenish the escrow in accordance with the Town of Aurelius Fee Schedule, depositing such funds as necessary for the Town to pay any outstanding fees to consultants and contractors.

v. After construction is complete, the Owner/Operator shall engage the services of a New York State licensed engineer to complete annual site inspections of the condition of the perimeter landscaping, site access road, and the overall condition of the site and vegetative cover. Following each annual site inspection, said engineer shall provide a written report to the Code Enforcement Officer including timeframe for required corrective actions to address deficiencies.

b. Operation and Maintenance Bond. Where solar facilities are to be operated, maintained and inspected by and at the responsibility of the Applicant or developer, prior to issuance of the building permit, these entities may be required to provide the Town of Aurelius with a bond, cash escrow, irrevocable letter of credit from an approved financial institution, or other acceptable surety, to ensure there are resources available to support and sustain the proper operation and maintenance of all stormwater management, site civil and landscaping elements until the facility is removed from operation. If there is failure undertake annual inspections, address corrective actions, and/or operate and maintain said facility in good working order, the Town may draw upon the account to cover costs of proper inspection, operation and maintenance, including legal, engineering and contractor costs. The bond amount shall be based on the estimated cost of annual inspections and typical maintenance actions over a five-year period, subject to third party review at the developer's expense, if requested by the Planning Board.

18. Waiver. The Planning Board may, under appropriate circumstances, waive one or more of the submission requirements contained herein.

**§ 100-90 Junk and Junkyard Regulation.**

A. No junk shall be located so as to be visible from public roads. No fluids from junk shall be drained or dumped on public or private property. No junk shall be buried or burned, except in compliance with the New York State Solid Waste Disposal Law. Disposal and storage of junk shall comply with New York State and Cayuga County laws, rules and regulations.

B. Junkyard Operation. No junkyard shall be operated without a special permit pursuant to § 100-56. In addition to the requirements and procedures set forth in the said § 100-56, all junkyards shall be governed by the following:

1. No junkyard shall be located within one hundred (100) feet of any adjoining property line; two hundred (200) feet of any public park, Place of Worship, educational facility, nursing home, right-of-way of any public road or public building or other place of public gathering; or two hundred (200) feet of any stream, lake, pond, wetland or other body of water.

2. There must be erected and maintained an eight-foot fence enclosing the entire junkyard with a locking gate. The fence must be adequate to prevent the entrance of children and others into the area, to screen the yard from view from the street or adjoining



property and to contain the junk safely within. Fencing shall be installed with the finished face directed toward the adjoining property or to any right of way or easement adjoining the Junkyard parcel(s).

3. The aforesaid requirements are in addition to the requirements of General Municipal Law § 239 or any recodification thereof.

**§ 100-91 Access.**

No building permit shall be granted with respect to a parcel with limited access, except pursuant to the procedures set forth in Town Law § 280-a or any recodified or renumbered provision thereof. This provision shall be deemed to refer to any amendments to the said statute, and, accordingly, the text of the statute at the time the building permit application is made will control.

**§ 100-92 Bed-and-Breakfast Regulations.**

In addition to the other regulations and procedures applicable to home occupation uses, applicants for bed-and-breakfast establishment approval must comply with the following:

A. Detailed plans of the structure and layout of the residence must be submitted, together with a written statement from the CEO as to safety, fire protection and structural soundness, with recommendations, if any, for improvements or changes deemed advisable.

B. The applicant must demonstrate compliance with all applicable regulations, including the Building Code of New York State.

C. Bedrooms and bathrooms of the dwelling used for paying guest accommodations shall not exceed  $\frac{1}{3}$  of the habitable floor area of the dwelling, and no more than four rooms shall be used as bedrooms for paying guests.

D. No more than eight guests per night (two guests per room maximum) shall be permitted, but the Planning Board may fix a lower maximum if appropriate. No guest shall stay on any one visit more than 15 days.

E. There must be at least one off-street parking space per paying room.

F. No apartments or rental units shall be permitted beyond the residents' living quarters and the bed-and-breakfast rooms.

G. Only one daily morning meal per paying guest shall be served.

H. A lighted sign, maximum six feet square, shall be permitted. Neon or flashing signs are not to be permitted.

I. Upon a change of ownership, the new owner must reapply to the Planning Board for a renewal of the permit.

**§ 100-93      Swimming Pools.**

A.      Swimming pools as defined in the Building Code of New York State shall be enclosed by a fence or other barrier to access by children and shall also, in addition, comply with the pertinent provisions of the Building Code of New York State.

B.      This provision concerning swimming pools applies to all such pools, whether built before or after the enactment of this provision.

**§ 100-94      Reimbursement of Professional Service Fees.**

A.      Authority. This provision is enacted pursuant to the provisions of the New York Municipal Home Rule Law.

B.      Purpose. It is the purpose and intent of this local law to promote and protect the health, safety and welfare of the residents of and visitors to the Town; to preserve, protect and enhance the environment and aesthetic assets of the Town, including the environmentally sensitive areas within the boundaries of the Town; and to safeguard the value of public and private property within the Town by authorizing the Town to provide for a system whereby applicants, appellants and other parties seeking the assistance or review of the Town Board, Town Planning Board, and/or Town Zoning Board of Appeals fully reimburse the Town for professional services fees in connection with such matters.

C.      Background & Policy. The Town Board, Planning Board, and Zoning Board of Appeals are legally required to review applications, appeals and requests for assistance from time to time on matters or concerns which may be presented to any or all of the boards. In furtherance of performing their duties in addressing such matters it may become necessary to refer certain matters to professional consultants for review, study, assistance and direction. Being cognizant that many matters submitted to the Town's various boards do not benefit the citizens of the Town as a whole and often benefit a single party, or a very limited class of citizens, the Town has determined that it is just and equitable for applicants, appellants and other parties seeking the assistance of the municipal boards to reimburse the Town for costs incurred relating to matters reviewed by its boards.

D.      Professional & Consulting Fees.

1.      The Town Board, the Town Planning Board, or the Town Zoning Board of Appeals, in the review of any application, appeal or other matter pending before said reviewing board, may refer such application, appeal or matter to such engineering, planning, legal, technical or environmental consultant, or other professional(s) employed or engaged by the Town, as such reviewing board shall deem reasonably necessary to enable it to competently review the same as required by law.

2.      The applicant, appellant or other party seeking relief, or a determination, as the case may be, shall reimburse the Town of Aurelius for the cost(s) of such consultant and/or professional services.

3. Charges made by such consultants shall be in accordance with charges typically assessed for such services in the Finger Lakes Region of New York State or pursuant to an existing contractual agreement between the Town and such consultant.

4. At such time as the application, appeal or other matter to be reviewed is approved, denied or completed by the board having jurisdiction, the Town Clerk shall refund to the applicant/appellant the escrow deposit required pursuant to Section 5 below, less any sums expended by the Town to engage services of professionals, including, but not limited to, attorneys and/or engineers, in order to provide assistance to said board relating to said application, appeal or other matter. A copy of the computation of said sums so expended shall be provided to the applicant/appellant at the time that the Town Clerk shall calculate the refund, if any, due the applicant/appellant hereunder.

5. In the event that an application, appeal or other matter is required to be reviewed by more than one board, then, in such event and to the extent practicable, both boards shall use the same consultant, who shall, in such case, to the extent practicable, prepare one (1) report providing data, information and recommendations requested. In all instances, duplications of consultants' reports or services shall be sought to be avoided wherever practicable in order to minimize the cost of such consultants' reports or services to the applicant/appellant. The above fees are in addition to any and all other fees required by any other law, rule or regulation.

E. Escrow Accounts.

1. At the time of submission of any application, appeal or matter to be reviewed, or thereafter, an escrow account shall be established, from which withdrawals shall be made to reimburse the Town for the costs of professional services. The applicant shall then provide funds to the Town for deposit into such account in an amount to be determined by the reviewing board with the advice and recommendation of the respective professional party engaged by the Town of Aurelius based on the said professional's evaluations of the nature and complexity of the application.

2. The applicant/appellant shall be provided with copies of any voucher for such services as they are submitted to the Town, except for any privileged portions of legal billings. The applicant/appellant shall be provided with an accounting of the reimbursements made from the escrow account to the Town upon applicant/appellant's request.

3. Any professional engaged by the Town shall report monthly to the Town Clerk the monetary value of their services rendered on each project.

4. When the balance in such escrow account is reduced to one-third (1/3) of its initial amount, the Town Clerk shall advise the applicant/appellant and the applicant/appellant shall deposit additional funds with the Town Clerk to bring the balance of such escrow account up to the amount of the initial deposit. If such account is not replenished within thirty (30) days after the applicant/appellant is notified in writing of the requirement for such additional deposit, the reviewing board may suspend its review of the application, appeal or matter under review. An application, appeal or matter under review shall be deemed incomplete if any amount shall be outstanding.

5. A building permit, other permit, or approval by the respective board being sought shall not be issued unless all professional review fees charged in connection with the applicant/appellant's project have been reimbursed to the Town from said escrow account.

6. All fees required pursuant to this section shall be collected by the Town Clerk.

7. This section shall be applicable to applications and appeals of matters under review pending at the time it shall become effective, unless the reviewing board shall determine that its application would be impracticable, unfair or unjust in the particular circumstances. Where this section shall be applicable to a pending application, appeal or matter of review, it shall, in such event, require an applicant/appellant only to pay for professional fees for the services rendered after it shall have become effective. Where this section shall be applicable to an appeal, the board responsible for the review of same may waive the requirement for an escrow account and may establish reasoned reimbursement criteria in light of the nature, complexity and time expenditures of consultants inherent in undertaking a complete and proper review of the appeal.

F. Record Keeping. The Town Clerk shall keep records of all escrow deposits and associated reimbursements made to the Town.

## **ARTICLE XXV**

### **TOWERS AND TELECOMMUNICATIONS FACILITIES**

#### **§ 100-95 Authority.**

The Planning Board of the Town of Aurelius is hereby authorized to: 1) review then recommend for approval, 2) with modifications, or 3) recommend approval to the Town Board. Planning Board may recommend consideration for special permits and site plans for towers consistent with Article 16 of the Town Law of the State of New York, § 274-a and 274-b. All cellular towers, windmills and accessory facilities must comply with Article XVII and/or the Subdivision Regulations of the Town of Aurelius, as applicable. The Zoning Board of Appeals will continue to have jurisdiction over special permits for uses aside from telecommunication facilities.

#### **§ 100-96 Intent.**

The Town of Aurelius recognizes the increased demand for wireless communications transmitting facilities and wind generation facilities and the need for the services they provide. Often, these facilities require the construction of a tower and associated structures. The intent of this article is to regulate telecommunications and wind generation facilities (i.e., towers) in accordance with the guidelines of the Telecommunications Act of 1996 by:

A. Accommodating the need for towers/antennas while regulating their location and number in the community.

B. Minimizing adverse visual impacts of these towers while regulating their location and number in the community.

C. Preserving and enhancing the positive aesthetic qualities of the built and natural environment in the Town of Aurelius.

D. Avoiding potential damage to adjacent properties from tower failure, falling ice, etc., through engineering and proper siting.

E. Requiring the joint use of towers, when available, and encouraging the placement of antennas on existing structures, to reduce the number of such structures in the future. No new tower may be established if there is a technically suitable space available on an existing telecommunications tower or structure within the search area that the new cell site is to serve.

**§ 100-97 General Criteria.**

No special permit or renewal thereof or modification of a current special permit relating to a telecommunications facility shall be authorized by the Planning Board unless it finds that such telecommunications facility:

A. Is necessary to meet current or expected demands for service;

B. Conforms to all applicable regulations promulgated by the Federal Communications Commission, the Federal Aviation Administration and other federal agencies;

C. Is considered a public utility in the State of New York;

D. Is designed and constructed in a manner which minimizes visual impact to the extent practical;

E. Complies with all other requirements of this chapter, unless expressly superseded herein;

F. Is the most appropriate site among those available within the technically feasible area for the location of a telecommunications facility;

G. When including the construction of a tower, such tower is designed to accommodate future shared use by at least one other telecommunications service provider. Any subsequent location of telecommunications equipment by other service providers on existing towers specifically designed for shared use shall not require a new or modified special permit if there would be no increase in the height of the tower. However, the additional equipment will require Town staff review; and

H. A building permit is required for all new and collocated towers and structures in the Town of Aurelius.

**§ 100-98 Approvals and Bulk Requirements.**

A. Collocated/Existing Structure Antennas. An antenna that is to be attached to an existing communications tower, smokestack, water tower or other structure is permitted in all zoning districts. However, all free-standing towers (No collocated/new structure antennas), individual or in groups shall be located in preferred zoning districts. The antenna is permitted upon issuance of a building permit. The building permit application will include a structural analysis/report verifying the ability of the structure to handle the antenna. The height of the new antenna shall not extend above the height of the existing structure by more than 50 feet.

B. No Collocated/New Structure Antennas. An antenna that will not be mounted on an existing structure, as defined above, or is more than 50 feet higher than the existing structure on which it is mounted is permitted as follows:

1. In all zoning districts a tower special permit, per §§ 100-98 and 100-99, and site plan review as set forth in Article XVII of the Town Zoning Law.

2. In addition to a State Environmental Quality Review Act (SEQRA) full Environmental Assessment Form (EAF), the Planning Board may require a visual assessment form (visual EAF/SEQRA form) as an addendum to the full EAF for telecommunications facilities proposed at key viewpoints in the community. The Planning Board may require submittal of a more detailed visual analysis based on the results of the visual EAF.

3. The tower must be set back a minimum of the height of the tower plus an additional fifty (50) feet from all property lines and any existing building.

4. The maximum height of a tower in all zoning districts is 195 feet. An area variance for height will be required from the Zoning Board of Appeals to exceed this height, following initial approval by the Planning Board.

5. Towers shall have free access for maintenance purposes.

**§ 100-99 Tower Special Permit Application Requirements and Materials.**

All applicants for a tower special permit shall make written application to the Planning Board. This application shall include:

A. Town-Supplied Permit Application Form.

B. Proof of notification (certified mail return receipts to be given to the Town by the applicant) of all property owners within 500 feet of the boundaries of the property on which the tower is to be constructed.

C. Appropriate fee. (See the Town of Aurelius Fee Schedule and § 100-94.)

D. Site plan application forms, including long-form EAF.

E. Site plan, in form and content acceptable to the Town according to Article XVII of the Town Zoning Law, prepared to scale and in sufficient detail and accuracy, showing at a minimum:

1. The exact location of the proposed tower, together with guy wires and guy anchors, if applicable.
2. The maximum height of the proposed tower.
3. A detail of tower type (monopole, guyed, freestanding or other).
4. The color or colors of the tower.
5. The location, type and intensity of any lighting on the tower.
6. The property boundaries. (A copy of a property survey, including metes and bounds description, must also be provided.)
7. Proof of the landowner's consent if the applicant will not own the property. (A copy of a lease agreement must also be provided if the applicant will not own the property.)
8. The location of all structures on the property and all structures on any adjacent property within 50 feet of the property lines, together with the distance of these structures from the tower.
9. The names of adjacent landowners.
10. The location, nature and extent of any proposed fencing and landscaping or screening.
11. The location and nature of proposed utility easements and access road, if applicable.
12. Building elevations of accessory structures or immediately adjacent buildings.
13. An Agricultural Data Statement if located within 500' of an agricultural taxing district.

F. "Before" and "after" propagation studies prepared by a qualified radio frequency engineer (signed and sealed by a professional engineer registered in the State of New York), demonstrating existing signal coverage, contrasted with the proposed signal coverage resulting from the proposed telecommunications facility.

G. A search ring prepared by a qualified radio frequency engineer (signed and sealed documents by a professional engineer registered in the State of New York) and overlaid on an appropriate background map demonstrating the area within which the telecommunications

facility needs to be located in order to provide proper signal strength and coverage to the target cell. The applicant must be prepared to explain to the Planning Board why it selected the proposed site, discuss the availability or lack of availability of a suitable structure within the search ring which would have allowed for a collocated antenna(s), and to what extent the applicant explored locating the proposed tower in a more intensive use district. Correspondence with other telecommunications companies concerning collocation is part of this requirement.

H. The Planning Board, upon reviewing the application, may request reasonable additional visual and aesthetic information as it deems appropriate on a case-by-case basis. Such additional information may include, among other things, enhanced landscaping plans, line-of-sight drawings and/or visual simulations from viewpoints selected by the Planning Board. Line-of-sight drawings and visual simulations are mandatory for applications in residential and agricultural zoning districts.

### **§ 100-100 Tower Special Permit Standards.**

The following criteria will be considered by the Planning Board prior to the approval/denial of a request for a tower special permit; the criteria listed may be used as a basis to impose reasonable conditions on the applicant:

#### **A. Siting Preferences.**

1. The Planning Board may require that the proposed telecommunications facility be located in an alternate technologically feasible and available location. A guideline for the town's preference, from most favorable to least favorable districts/property, is as follows:

- a. Property with an existing structure suitable for collocation.
- b. (I) Districts.
- c. (C) Districts.
- d. (PUD) Planned Unit Development Districts.
- e. (A) Agricultural Districts.
- f. (AR) Agricultural/Residential Districts.
- g. (TB) Entertain a Cell.

In no case shall the tower be located in a residential district.

B. Aesthetics. Telecommunications facilities shall be located and buffered to the maximum extent which is practical and technologically feasible to help ensure compatibility with surrounding land uses. In order to minimize any adverse effect on neighboring residences to the extent possible, the Planning Board may impose reasonable conditions on the applicant, including the following:



1. The Planning Board may require a monopole or guyed tower (if sufficient land is available to the applicant) instead of a freestanding tower. Monopoles are a preferred design.

2. The Planning Board may require reasonable landscaping consisting of trees or shrubs to screen the base of the tower and/or to screen the tower to the extent possible from adjacent residential property. Existing on-site trees and vegetation shall be preserved to the maximum extent possible.

3. The Planning Board can request additional site plan requirements such as specially designed towers, additional screening, greater setbacks and improved landscaping to address aesthetic concerns.

4. The Planning Board may require the applicant to show that he has made good-faith efforts to collocate on existing towers or other available and appropriate structures and/or to construct new towers near existing towers in an effort to consolidate visual disturbances.

5. Towers should be designed and sited as to avoid, whenever possible, application of FAA lighting and painting requirements. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Towers shall be of a nonreflective finish, the color of which shall be subject to approval. Any lights which may be required by the FAA shall not consist of strobe lights, unless specifically mandated by the FAA.

6. No tower shall contain any signs or advertising devices. A small sign on the fencing shall be plated to identify the ownership of the facility and a telephone number for emergencies.

7. The applicant must submit a copy of its policy regarding collocation with other potential future applicants on the proposed tower. Such policy must allow collocation.

C. Radio-Frequency Effect. The Planning Board may impose a condition on the applicant that the communications antennas be operated only at Federal Communications Commission (FCC) designated frequencies and power levels and/or Environmental Protection Agency (EPA) technical exposure limits, and that the applicant provide competent documentation to support that maximum allowable frequencies, power levels and exposure limits for radiation will not be exceeded.

D. Traffic, Access and Safety.

1. A road turnaround and one parking space shall be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. The use of public roadways or road rights-of-way for the siting of a tower's or antenna's accessory structures is prohibited.

2. All towers and guy anchors, if applicable, shall be enclosed by a fence not less than eight feet in height or otherwise sufficiently protected from trespassing or vandalism.

3. The applicant must comply with all applicable state and federal regulations, including but not limited to FAA and FCC regulations.

E. Removal of tower. The applicant shall agree to remove the tower if the telecommunications facility becomes obsolete or ceases to be used for its intended purpose for 12 consecutive months. The Planning Board shall require the applicant to provide a demolition bond (in an amount determined by the Planning Board based on the cost of removal) for purposes of removing the telecommunications facility in case the applicant fails to do so as required above. The applicant shall submit estimated costs for removal to the Planning Board.

F. Structural safety. During the application process and every three years after construction of the tower, the applicant/owner shall provide to the Code Enforcement Officer a certification from a qualified, professional engineer, certifying that the tower meets applicable structural safety standards.

G. Maintenance of telecommunications facility. All telecommunications facilities shall be maintained in good order and repair.

**§ 100-101 Exemptions.**

A. Exemptions shall be as follows:

1. Antennas used solely for residential household television and radio reception.

2. Satellite antennas measuring two meters or less in diameter and located in commercial districts and satellite antennas one meter or less in diameter, regardless of location.

B. Towers and antennas may be repaired and maintained without restriction.

**§ 100-102 Application Procedure.**

A. The owner/applicant shall submit to the Planning Board a completed, written application and site plan under Article XVII. Upon receipt of such application and site plan, the Planning Board shall conduct a two-step review process. The Planning Board shall first determine whether the applicant qualifies for a special permit according to § 100-98 and § 100-99 of this article. Then, the Planning Board shall conduct site plan review in accordance with Article XVII of the Town Zoning Law.

B. Any application requiring a tower special permit and any other approvals from another board (i.e., Zoning Board of Appeals) must receive Planning Board approval prior to any action by any other boards.

C. The Planning Board, in determining whether to issue a tower special permit, shall follow the procedure set forth in Town Law § 274-b, entitled "Approval of Special Use Permits." In the event such statutory provisions are renumbered or recodified, the renumbered or recodified provisions shall apply and are incorporated herein by reference. In particular, the Planning Board shall conduct a public hearing within 62 days from the date an application is received,

with notice of said hearing to be printed in a newspaper of general circulation in the Town at least five days prior to the date thereof. The Planning board shall render its decision to issue the special permit within 62 days after the hearing as now provided in Town Law § 274-b(6). The Planning Board shall also comply with the notice requirements to the County Planning Board and other bodies as well as compliance with State Environmental Quality Review Act, all as provided in Subdivisions (7) and (8) of the aforesaid Town Law § 274-b.

D. If the Planning Board approves a special permit, the Planning Board shall then conduct site plan review. Site plan review shall be conducted in accordance with the procedures set forth in Article XVII of the Town of Aurelius Zoning Law.

E. The approval of the Planning Board shall be contingent on the receipt by the Town Board of a bond for the demolition of the telecommunications tower within five business days, and said bond shall be subject to the approval of the Planning Board and the Town Attorney.

F. Any materials (i.e., proof of continued use of the tower) to be filed by the owner/applicant or any subsequent owner/operator of the communications tower shall be filed with the Codes Enforcement Office of the Town of Aurelius on a yearly basis.

G. The Planning Board may waive or vary any requirements in this article for good cause shown.

H. This article is meant to control towers and similar facilities in the Town. Unless specifically referenced in this article, other sections of the Zoning Law are intended to be inapplicable (such as height limitations normally required in the relevant zoning district).

#### **§ 100-103 Revocation of Permit; Removal of Towers in Violation.**

Any facility receiving a tower special permit that subsequently does not meet the requirements of that permit shall have its permit revoked, and the tower shall be removed within 90 days of notification by the Town.

#### **§ 100-104 Telecommunications Facilities Fee Schedule.**

Telecommunications facilities fees shall be as follows:

A. Tower special permit: \$2,500 application fee (includes site plan fee); plus any additional costs for outside consultants incurred by the Town for review of propagation studies, search ring and analysis, collocation possibilities, or the structural planned specification for the construction of the tower, or any other review deemed necessary by Town officials.

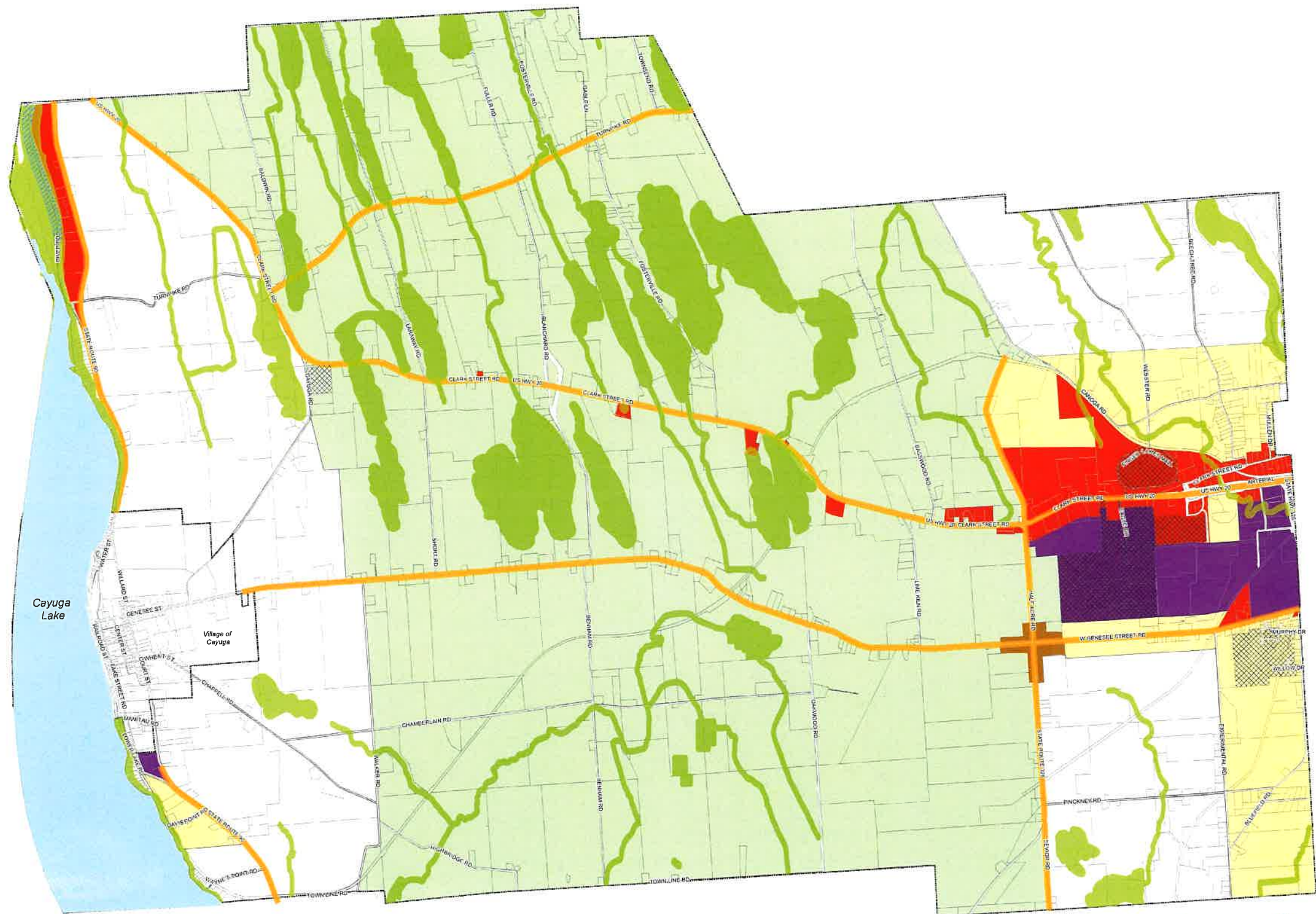
B. Building permit fee: \$250 base fee (examination of plans and review); plus \$10 per \$1,000 of value of total verified construction cost.

**§ 100-105 History of Amendments.**

<b>Local Law No.</b>	<b>Adoption Year</b>	<b>Description</b>
–	1993	Adoption of Zoning Law
–	1998	Establishment of Aurelius Industrial Park Planned Development District
–	2004	Amendment to Site Plan Review Procedures
–	2008	Adoption of Subdivision regulations
–	2008	Repeal of 1993 Zoning Law and Map
1	2008	Adoption of New Zoning Law and Map
1	2009	Adoption of Alternate Planning and Zoning Board of Appeals Members Act.
1	2012	Amendment of Aurelius Industrial Park Planned Development District regulations
2	2016	Amendment of Zoning Law and Map to establish White Barn Winery Planned Development District
1	2019	Amendment of Zoning Law and Map to reclassify 6369 Half Acre Road from Commercial to Agricultural-Residential
1	2020	Amendment of Zoning Law and Map to establish River Road Residential District
1	2022	Amendment of permitted uses in PDD/PUD districts
2	2022	Amendment to Special Permit Review Procedures
–	2023	Adoption of New Zoning Law and Map

**Appendix A**

Zoning Map



**Legend  
Zoning Districts**

- Zone\_2
- (PUD) Planned Unit Development Overlay
- (CO) Conservation Overlay
- (HO) Highway Overlay
- 2023 Tax Parcels Clipped
- Municipal Boundary
- (AR) Agricultural / Residential
- (A) Agricultural
- (R) Residential
- (RH) Rural Hamlet
- (C) Commercial
- (I) Industrial
- (RR) River Road

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