

ARTICLE I: GENERAL PROVISIONS

SECTION 101 – TITLE.

The Article shall constitute and be known as the “Zoning Code of the Town of Leicester” (hereafter referred to as “Code”). The Code shall include this text, all schedules and attachments referred to herein and the official Zoning Map. Any fee schedule referenced herein shall be adopted by the Leicester Town Board, may be amended from time to time and shall be available for Public inspection at the Town Clerk’s office.

SECTION 102 – PURPOSE AND INTENT.

The objective of this Code is to promote public health, safety and welfare and to provide for the orderly physical development and growth of agricultural, residential, commercial, and industrial uses of land, consistent with the economic and social needs of the community and with any land development policies adopted by the Town and consistent with the objectives of New York State’s Town Law Section 264.

SECTION 103 – CONFLICT WITH OTHER LAWS.

Whenever the requirements of this Code are at variance with the requirements of any lawfully adopted rules, regulations, laws, or ordinances, the most restrictive of those imposing the higher standards shall govern.

SECTION 104 – APPLICABILITY AND SEVERABILITY.

- A. Except as herein provided, no Building or land in the Town of Leicester, outside the corporate limits of the Village of Leicester shall be used or occupied nor shall any Building or part thereof be erected, moved or altered unless in conformity with the regulations of this Code. Existing Buildings, Structures and uses which do not comply with the regulations of this chapter shall be allowed to continue, subject to the provisions of Article VII of this Code relating to nonconformities.
- B. Should any section of, or provision of this Code, be determined by a court of competent jurisdiction to be unconstitutional or invalid, such determination shall not affect the validity of this Code as a whole or any part thereof other than that part so determined to be unconstitutional or invalid. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Code to a particular property, Building or Structure, such judgment shall not affect the application of said provision to any other property, Building or Structure.

SECTION 105 – INTERPRETATION.

In interpreting, construing and applying the provisions of this Code, such provisions shall be held to be the minimum requirements for the protection of the public safety, convenience, prosperity, and general welfare of the public. It is not intended that this Code shall conflict, abrogate, or annul (except as specifically herein provided) any other ordinance, local law, rule or regulation of the Town of Leicester previously adopted or which may hereafter be adopted and not in conflict with this Code; nor is it intended that this Code will interfere with or abrogate or annul any easements, covenants, or other agreements between parties. Whenever this Code imposes a greater restriction upon the use of Buildings, Structures or premises or upon the height of Buildings or Structures or requires larger yards, courts or other open spaces than are imposed or required by such existing provisions of law or ordinance, or by such rules, regulations, or permits, or by such easements, covenants, or agreements, the provision of this Code shall control.

SECTION 106 – REPEAL OF PRIOR ZONING LAW OR ORDINANCE.

All prior zoning ordinances and/or Code provisions of the Town of Leicester regulating or restricting Buildings, the use of lands, and setbacks are hereby repealed and rescinded.

SECTION 107 – AMENDMENTS.

The regulations, restrictions, Uses and boundaries provided in this Code and the Zoning Map may be amended, supplemented, changed, modified or repealed in accordance with the provisions of Sections 264 and 265 of Article 16 of New York State’s Town Law and all other laws of the State of New York applicable thereto, and in accordance with the following procedures:

A. The Town Board may, in accordance with the provisions of Town Law, on its own motion or upon petition of any property owner, or on recommendation from the Planning Board or the Zoning Board of Appeals, amend, supplement, change or repeal any or all of the regulations and provisions of this Code. The Town Board may amend this Code to ensure that the development of the area being reclassified will be in accordance with an existing or future development plan or Comprehensive Master Plan adopted by the Town Board.

B. PETITION FOR ZONING CHANGE OR AMENDMENT.

1. Whenever any person, firm, or corporation desires that any amendments or changes be made to this Code, including the text and/or Zoning Map, as to any property in the Town, there shall be presented to the Town Board a petition requesting such change or amendment. The petition must be signed and acknowledged by the person presenting it in the same manner as required for

the recording of a deed to real property and shall be filed by the petitioner with the Town Clerk, in triplicate. The petition shall clearly describe the property or properties proposed for re-zoning and their boundaries and shall indicate the existing zoning district(s) classification and the requested zoning district(s) classification. The petition shall also identify existing highways, municipal boundary lines, State parks and State or County institutions, if such exist, within five hundred (500) feet of the proposed area of the requested zoning change. A petition requesting a change in district boundaries or use classification must be signed by the owners of not less than fifty (50) percent of the area for which the petition is presented. The petition shall also list the names and addresses of all property owners bordering the proposed zoning change. A filing fee, pursuant to regulations adopted by the Town Board, shall be paid at the time of filing of the petition.

2. All future amendments to this Code shall comply with the requirements of Sections 264 and 265 of the New York State Town Law.

C. PUBLIC HEARING REQUIRED.

1. No amendment shall become effective until after a public hearing, at which parties in interest and citizens shall have an opportunity to be heard.
2. As required by NYS Town Law Section 264, notice of the place and time of such hearing shall be published in a paper of general circulation in the Town of Leicester at least ten days prior to the hearing.

D. NOTIFICATION TO NEIGHBORING MUNICIPALITY.

1. If the proposed zoning change affects property within five hundred (500) feet of the boundaries of any City, Village, Town, County, State Parkway or Park, pursuant to Town Law Section 264, a written notice shall be sent to the Clerk of such City, Village, Town, County, or regional State Park commission at least ten days prior to the date of the public hearing.
2. Such City, Village, Town, County, or regional Park Commission shall have the right to appear and to be heard at such public hearing with respect to any such proposed change or amendment, but shall not have the right of review by a court as herein after provided.

- E. REFERRAL TO COUNTY PLANNING BOARD. When any zoning change, amendment to the Code or amendment to the Zoning Map affects property within five hundred (500) feet of a municipal boundary, refer to Section 512 of this Code.

SECTION 108 – EFFECTIVE DATE.

This Code shall take effect immediately after the same shall have been published and posted, as provided for by the Laws of the State of New York.

SECTION 109 – ENFORCEMENT & PENALTIES FOR OFFENSES.

- A. ENFORCEMENT. It shall be the duty of the Code Enforcement Officer or any duly authorized assistants to enforce the provisions of this Code or any determination of the Zoning Board of Appeals or the Planning Board.
- B. PENALTIES FOR OFFENSES. The violation of any provision of this Code is an offense and shall subject the person violating the same to a fine not exceeding Two Hundred Fifty dollars (\$250.00) or to imprisonment not exceeding fifteen (15) days, or both.
- C. CONTINUED VIOLATION. Each week’s continued violation shall be considered a separate and distinct offense.
- D. CIVIL PENALTIES. In addition to those penalties prescribed by state law or elsewhere in this Code, any person who violates any provision of this Code any other section of the Leicester Town Code, shall be liable to a civil penalty of not more than Two Hundred Fifty dollars (\$250.00) for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of the Town.
- E. OTHER RELIEF. Nothing contained in this Section shall preclude the municipality or its agents from seeking such other relief as may be lawful in order to compel adherence to the terms of this chapter and otherwise enforce the same.

ARTICLE II: DEFINITIONS

SECTION 201 – DEFINITIONS.

ACCESSORY STRUCTURE/BUILDING – A subordinate Structure or Building not attached to the Principal Building and located on the same Lot as the Principal Building, occupied by or devoted to an Accessory Use.

ACCESSORY USE – A Use that is naturally and normally incidental and subordinate to the main or principal use of the premises, whether located in a Principal or Accessory Building or

Structure on the same Lot therewith. In no case shall such Accessory Use dominate, in area, extent or purpose, the principal lawful Use or Building.

ADULT ENTERTAINMENT – refer to the Town of Leicester Adult Entertainment Law.

AGRIBUSINESS – Any business which is designed to directly support or engage in the production operations of an Agricultural or Farming Operation, the manufacture or distribution of farm equipment and supplies, or the processing, storage, and distribution of farm commodities. Agribusinesses may include: farm markets, agritourism, and direct marketing businesses associated with Agriculture.

AGRICULTURE – The use of land for Agricultural purposes including tilling of the soil, dairying, pasture, Agriculture, arboriculture, horticulture, floriculture, viticulture, forestry, animal and poultry husbandry and the necessary Accessory Uses for packing and storing products, provided that the operation of any such uses shall be secondary to that of normal Agriculture activities, and provided that such Uses shall not include the commercial feeding of garbage and offal to swine or other animals.

AGRICULTURAL OR FARM BUILDING – Any Building used for the housing of farm workers, agricultural equipment, products, Livestock or poultry, or for the incidental or customary processing of farm products, and provided that such building is located on, operated in conjunction with and necessary to Agricultural/Farming operations as defined in this Article. The term “Farm Building” shall not include a primary residence.

AGRICULTURAL /FARMING OPERATION – The use of a parcel of land of five acres or more for gain in the raising of agricultural products, trees, nursery stock, Livestock, poultry or dairy products. It includes necessary farm buildings and storage of necessary equipment. It also includes the use of a parcel of land less than five acres except that on such parcels, the raising of fur-bearing animals, livery or boarding stables, dog Kennels and the raising of Livestock or poultry for personal use or sale and/or slaughter is excluded and therefore prohibited.

ALTERATIONS – As applied to a Building or Structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or increasing in height, or the moving from one location or position to another.

ALTERATIONS, STRUCTURAL – Any change in the supporting members of a Building or Structure, such as bearing walls, columns, beams, or girders other than the modification and repair of building equipment systems such as heating, cooling and electrical.

ALTERNATIVE ENERGY SYSTEMS – Structures, equipment, devices, or construction techniques used for the production of heat, light, cooling or other forms of energy on site and may be attached to or separate from the principal Structure. Examples include wind machines, Solar Energy Systems, geo-thermal systems, and solar water heaters.

ANIMAL HOSPITAL/VETERINARIAN – A business which provides animal care, medicine, and surgery on the premises, and which houses animals overnight and/or for extended periods of treatment.

APPEAL – A request for a review of the Code Enforcement Officer's (or other administrative official's) interpretation of any provision of this Code.

BAR/TAVERN – A business establishment with a New York State Liquor License authorizing sale of liquor for on-premises consumption in which liquor sales represent 25% or more of sales receipts.

BASEMENT – That portion of a Building that is partly or completely below grade plane.

BED AND BREAKFAST/TOURIST HOME – An Owner-occupied Dwelling in which overnight accommodations (six or fewer bedrooms) are provided for transient guests for compensation but where such use is secondary to the Owner occupancy.

BUFFER – A designated area whose purpose is to provide a barrier to minimize the impact of potential intrusive Uses, such as, but not limited to; noise and lights. The screening used in a Buffer area may be in the form of Fences, vegetation, or a combination of appropriate methods.

BUILDING – Any Structure having a roof supported by columns or walls intended for commerce, shelter, housing, or enclosure of persons, animals, or material.

BUILDING, AREA – The aggregate square footage of the areas of all enclosed and roofed spaces of the Principal Building and all Accessory Buildings. Such areas shall be computed by using outside building dimensions measured on a horizontal plane at ground level.

BUILDING, FRONT LINE OF – The line of that face of the Building nearest the street line, or if there are street lines on two or more sides of the Building, it is the line of that face of the Building frontage on that street line where the principal entrance is located. This face includes covered porches whether enclosed or unenclosed, but does not include steps.

BUILDING, HEIGHT – The vertical distance measured from the average elevation of the proposed finished grade at the front of the Building to the highest point of the roof for flat roofs, to the Deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gable roofs.

BUILDING, PRINCIPAL – A Building in which is conducted the main Use of the parcel on which said Building is located.

BUILDING, TEMPORARY – Any Building or Structure erected, constructed, or placed upon the parcel intended for temporary occupancy or Use in connection with the construction or operation of a Permitted Use and to exist on the parcel for a brief or temporary duration of time,

not exceeding 6 months. All other Buildings or Structures shall be deemed and considered as permanent for the purposes of this Code.

CAMPGROUND – A parcel of land used or intended to be used by two or more tents, travel trailers or other recreational vehicles on a transitory or seasonal basis and conducted as a business or as part of a public Use or private club.

CAMPING TRAILER - Any vehicle used or arranged for temporary living or sleeping purposes, mounted on wheels, which may be registered and drawn by a motor vehicle.

CARPORT – A roofed Structure that can be freestanding or attached to a Structure and used for the storage of one or more vehicles.

CLUB – Any organization catering to members and their guests, or premises and Buildings for recreational or athletic purposes and not open to the general public, which are not conducted primarily for gain, providing there are not any vending stands, merchandising, or commercial activities except as required for the membership and purposes of such Club. For the purpose of this Code, Club shall include lodges, fraternal organizations, mutual benefit societies, and other like organizations.

COMMUNICATION CENTER, CALL CENTER – A facility that provides data processing and data collection and/or document management.

COMMUNITY CENTER – Any meeting hall or place of assembly not operated primarily for profit.

COMMUNITY RESIDENCE - A supervised community home operated in compliance with the New York State Mental Hygiene Law which houses not more than fourteen (14) individuals and provides client supervision on a 24-hour basis. For the purposes of this Code an approved Community Residence as defined herein is considered a Single-Family Dwelling.

COMPREHENSIVE PLAN – The materials, written and or graphics, including but not limited to maps, charts, studies, resolutions, reports and other descriptive materials that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development of the Town of Leicester.

CONVALESCENT HOME, HOSPICE, NURSING HOME OR EXTENDED CARE FACILITY – See Hospital.

DARK SKY COMPLIANT – The prohibition of light from installed lighting fixtures from illuminating the darkness of a night sky.

DAY CARE – A facility as defined by Article 390 of the Social Service Law of the State of New York.

DAY CARE CENTER – A place other than an occupied residence providing or designed to provide day care for seven or more persons on a regularly scheduled basis for more than three but less than 24 hours a day.

DAY CARE, CHILD – Shall mean care for a child on a regular basis provided away from the child's residence for less than 24 hours per day by someone other than the parent, step-parent, guardian or relative within the third degree of consanguinity of the parents or stepparents of such child.

Child day care does not refer to care provided in:

- (1) A summer day camp, traveling summer day camp, or children's overnight camp as defined in the State Sanitary Code;
- (2) A program for school-age children operated solely for the purpose of religious education, sports, classes, lessons, or recreation;
- (3) A facility providing day care services or treatment under an operating certificate issued by the Office for People with Developmental Disabilities (OPWDD); or
- (4) A kindergarten, pre-kindergarten, or nursery school for children three years of age or older, or a program for school-age children conducted during non-school hours, operated by a public school district or by a private school or academy which is providing elementary or secondary education in accordance with the compulsory education requirements of the Education Law, provided that such kindergarten, pre-kindergarten, nursery school or program is located on the premises or campus where the elementary or secondary education is provided.

DAY CARE, HOME - Shall mean a Single-Family Dwelling which is occupied as a personal residence which provides child care on a regular basis for more than three hours per day per child for three to six children for compensation or otherwise except as provided below. The name, description or form of the entity which operates a Home Day Care does not affect its status as a Home Day Care. For the purpose of this Code, a Home Day Care shall be considered an Accessory Use to a Single-Family Dwelling Unit.

DECK – An exterior floor system constructed with approved building material, with a walking surface at any perimeter location of at least eight inches above the grade below, supported on at

least two opposing sides by an adjoining Structure and/or posts, piers or other independent supports.

DEVELOPMENT – Any man made change to improved or unimproved real estate, including, but not limited to, Buildings or other Structures, utilities, mining, dredging, filling, grading, paving, excavation or drilling operations, excluding normal maintenance to farm roads.

DISPOSAL TRANSFER STATION – A solid waste management facility, other than a recyclables handling and recovery facility exclusively handling non-putrescible recyclables, that can have a combination of Structures, machinery, or devices, where solid waste is taken from collection vehicles and placed in other transportation units for movement to another solid waste management facility.

DRIVE-IN FACILITY – A Use or portion of a Use which by design of physical facilities or by service or packaging procedures encourages or permits customers to receive a service or obtain a product which may be consumed or used in a motor vehicle on the premises.

DWELLING – Any Building that contains one or more Dwelling Units used, intended, or designed to be built, used, rented, leased, let, or hired out to be occupied, or that are occupied for living purposes, including a Manufactured Home.

SINGLE-FAMILY: A detached residential Dwelling designed for and occupied by one family only.

TWO-FAMILY: A detached residential Building containing two separate Dwelling Units, designed for occupancy by not more than two families.

MULTIPLE FAMILY: A residential Building designed for or occupied by three or more families with the number of families in the residence not exceeding the number of Dwelling Units provided.

SEASONAL HOME: A Dwelling Unit intended for occupancy only during certain seasons of the year, principally for recreational use by the owner, including hunting cabins, vacation cottages and vacation lodges.

DWELLING UNIT – One or more rooms connected together constituting a separate, independent housekeeping establishment and containing independent cooking and sleeping facilities, designed for occupancy by one family, either for Owner occupancy or lease on a weekly, monthly, or longer basis, and physically separated from any other Dwelling Units which may be in the same Structure.

DWELLING USE, ACCESSORY – An Accessory Use involving a separate and complete Dwelling Unit either in or added to an existing Single-Family Dwelling, or a separate Accessory Building on the same Lot as the Principal Building.

EQUESTRIAN FACILITY – A place used for horsemanship which may include but is not limited to horse stabling, horseback riding, horse training, horse riding lessons and competition events.

FAMILY - One or more persons who live together in a Single-Family Dwelling Unit and maintain a common household. The family may consist of a single person or two or more persons, whether or not related by blood, marriage or adoption.

FARM LABOR CAMP – Housing facilities, Building or Buildings in which people are housed who are employed by an Agricultural or Farming Operation.

FENCE – Any Structure built with approved building materials attached to the ground for the purposes of, including but not limited to the following: identifying property lines, containing Livestock or pets, or to establish a barrier to prevent entry into any space. Decorative landscaping items are not included.

GROSS FLOOR AREA – For the limited purposes of applying the requirements for off-street parking and loading, “Gross Floor Area” in the case of offices, merchandising, or service types of Uses, shall mean the total floor area to be Used or intended to be used by Tenants, or for service to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for display, sales or merchandise. It shall not include areas used principally for non-public purposes such as storage, incidental repair, restrooms, fitting or alteration rooms, general maintenance or enclosed pedestrian malls or corridors.

FUNERAL HOME - An establishment in which the dead are prepared for burial or cremation and in which wakes and funerals may be held.

GARAGE – Attached or detached Building used in conjunction with a primary Building which provides storage.

GAS STATION/CONVENIENCE STORE – A retail establishment which offers for sale beverages and sundries, including the dispensing of motor fuels.

HABITABLE SPACE – The space within a Building which is used for living, sleeping, eating or cooking, or to be used for a Home Occupation. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered Habitable Spaces.

HISTORIC STRUCTURE – Any Structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on the New York State inventory of historic places which has been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - A. By an approved state program as determined by the Secretary of the Interior; or
 - B. Directly by the Secretary of the Interior in states without approved programs.

HOME OCCUPATION – Any occupation, profession or business which is carried on wholly within a Dwelling, is clearly incidental and secondary to the Use of such Dwelling for residential purposes and is carried on only by members of the family residing on the premises.

HOSPITAL – Hospital, sanitarium, clinic, Hospice, rest home, Nursing, Convalescent Home, home for the aged, and any place for diagnosis and treatment of human ailments, with the exception of a doctor’s office.

HOTEL – A Building or Buildings containing rooms intended, designed, or used, rented, or hired out, to be occupied for sleeping purposes by transient guests and/or the general public.

IMPERVIOUS SURFACE – The horizontal area of ground covered by a surface through which water cannot infiltrate, such as, Buildings, asphalt or concrete driveways and parking areas.

JUNK AND REFUSE – Refer to Town of Leicester Junk/Scrap Yard and Junk Storage Law.

KENNEL- A Lot or parcel of land where four (4) or more adult dogs are kept whether by Owners of the dogs or by persons providing facilities and care, whether or not for compensation, but not including a small animal hospital, clinic or pet shop. An adult dog is one of either sex, altered or unaltered, that has reached the age of four (4) months.

LANDSCAPED AREA – The area of a Site Plan which does not consist of any Structures or pavement. Landscaped area shall consist of those areas on a Site Plan that are planted, seeded or provide similar vegetative or landscaped cover, including ponds.

LAUNDRY, SELF SERVE – A business establishment that provides clothes washers and dryers for hire to be used by customers on the premises.

LIGHT TRESPASS – The encroachment of light from an installed light fixture upon any adjoining properties.

LIVESTOCK – Any domestic animal kept, including but not limited to cattle, horses, donkeys, mules, burros, sheep, hogs, goats, or poultry greater than three months of age; provided, however that this definition shall not apply to dogs and cats, nor shall it apply to sheep, cattle or horses allowed to pasture on open range land where the individual pastures exceed ten (10) acres in area.

LOT – A parcel of land considered as a separate unit, devoted to a certain Use or occupied by a Building or group of Buildings that are united by a common interest or Use and the customary Accessory Use and open spaces belonging to the same. A Lot, within the meaning of this Code, may or may not be a lot as shown on a subdivision plot or the assessment records or maps.

LOT AREA – An area of land which is determined by the limits of the Lot Lines bounding that area and expressed in terms of square feet or acres. Any portion of a Lot included in a public street or Road Right-Of-Way shall not be included in calculating Lot Area.

LOT COVERAGE - The percentage of the Lot Area covered by Buildings or Structures excluding parking areas, driveways and walkways.

LOT DEPTH – The mean horizontal distance between the Front and Rear Lot Lines.

LOT LINES - The property lines bounding the Lot. In the case of a Lot abutting more than one street or Road, any such Lot Line bounding a street or a Road will be considered a “Front Lot Line”.

LOT LINE-REAR –The Lot Line which is generally opposite the Front Lot Line.

LOT LINE-SIDE – The property line or lines extending from the Front Lot Line to the Rear Lot Line.

LOT- WIDTH – The mean width measured at right angles to the Front Lot Line or, for wedge-shaped Lots, flag-shaped Lots or Lots with side boundary lines not perpendicular to the Front Lot Line, the width measured at the required minimum front setback.

MANUFACTURING – Any commercial process whereby the nature, size, or shape of articles or raw materials is changed or where articles are assembled or packaged.

MANUFACTURED HOME/DOUBLE WIDE - A Manufactured Home consisting of two or more sections, combined at the site, with a width of no less than 20 feet, and built on a permanent chassis while still retaining their individual chassis for possible future movement and complying with Part 1220 of the New York State Uniform Fire Prevention and Building Code and Federal Department of Housing and Urban Development standard. The term “Manufactured Home” shall not include however any self-propelled recreational vehicles, including but not

limited to; travel trailers, motorized homes, pickup coaches and camping trailers. This definition does not include Modular Homes as defined by the New York State Uniform Fire Prevention and Building Code.

MANUFACTURED HOME PARK – A parcel of land which is planned and improved for the long term placement of two or more Manufactured Homes and for which Use said premises are offered to the public or to any person for a fee.

MOBILE HOME – The same meaning as a “Single-Wide” Manufactured Home, a structure 14 feet or less in width and transportable in one section.

MODULAR HOME – A factory-manufactured Dwelling Unit which incorporates Structures or components designed for residential occupancy, constructed by a method or system of construction whereby the Structure or component is wholly or in substantial part manufactured in a manufacturing facility and is intended for permanent installation on a foundation at a Building site. Such home shall be constructed and installed in accordance with the requirements of Sub Chapter B of the New York State Fire Prevention and Building Code and shall bear an insignia of approval issued by the New York State Fire Prevention and Building Code Council. Factory-Manufactured Homes shall be deemed to be Single, Two-Family or Multiple Family Dwellings.

MOTEL –A Building or group of Buildings, whether detached or in connected units, used as individual sleeping units designed primarily for transient automobile travelers and providing accessory off-street parking and if desired, restaurant facilities. The term “Motel” shall also include tourist courts, motor lodges and similar Uses.

MOTOR VEHICLE REPAIR – Engine repair, body work, frame straightening, painting, upholstering, steam cleaning, electrical work, tune-ups and all other vehicle repair services not specifically listed in the definition or motor vehicle service stations.

MOTOR VEHICLE, INOPERABLE – A vehicle that cannot be driven upon the public streets for reasons including but not limited to being unlicensed, un-inspected, wrecked, abandoned, in a state of disrepair, or incapable of moving under its own power.

MOTOR VEHICLE SALES AREA – Any Building, land area or other premises used for the display or sale of new or used automobiles, motorcycles, trucks, trailers or boats, but not including any repair work other than warranty and other repair service conducted as an Accessory Use on such premises.

MOTOR VEHICLE SERVICE STATION – Any Building, land area or other premises, or portion thereof, used or intended to be used for any one or a combination of the following activities:

- (1) Retail dispensing or sales of motor vehicle fuels;

- (2) Retail dispensing or sales of motor vehicle lubricants, including oil changing and chassis lubrication where substantial dis-assembly is not required;
- (3) Retail dispensing or sales or motor vehicle coolants;
- (4) Hand or machine washing in a single bay motor vehicle wash; or
- (5) Incidental repair or replacement of parts, such as windshield wiper blades, light bulbs, air filters, oil filters, batteries, belts, tires, fuses, lubrication of vehicles, and the like.

MOTOR VEHICLE WASH – Any Building or premises, or portion thereof, the use of which is devoted to the business of washing motor vehicles for a fee, whether by automated cleaning devices or otherwise.

NON-CONFORMING BUILDING – A Building, which in its design or location upon a Lot, does not conform to the regulations of this Code for the zoning district in which it is located.

NON-CONFORMING LOT – Any Lot of record lawfully existing at the date of adoption of this Code or any amendment thereto which does not have the minimum width or contain the minimum area, or is otherwise not in compliance with the zoning district in which it is located.

NON-CONFORMING USE – Any Use of any Building, Structure or land lawfully existing at the date of adoption of this Code or any amendment thereto which does not conform to the Use regulations of the zoning district in which it is situated.

OPEN SPACE/USABLE OPEN SPACE – An area or areas of a Lot, including required yards, which are:

- (1) Open and unobstructed from ground to sky, except by facilities specifically designed, arranged and intended for use in conjunction with passive or active outdoor recreation or relaxation.
- (2) Landscaped, maintained or otherwise treated to create a setting appropriate to recreation or relaxation.
- (3) Accessible and usable by the general public, business patrons or residents of all Dwellings or stores it is intended or required to serve.

OWNER – An individual, firm, association, syndicate, partnership, corporation or other form of business entity having sufficient proprietary interest to seek development of land.

PARKING SPACE – An off-street space available for the parking of one motor vehicle on a transient basis and having a width of at least ten (10) feet, and an area of not less than two

hundred (200) square feet, exclusive of passageways and driveways, and having direct usable access to a street or Road.

PLANNING BOARD – The officially established Planning Board of the Town of Leicester.

PRINCIPAL USE - The main or primary Use to which a Lot, Building or Structure is or is intended to be used.

PROFESSIONAL OFFICES – Offices such as, but not limited to, attorneys, accountants, architects, engineers, doctors, dentists, other medical specialists, psychiatrists, psychologists, therapists, chiropractors, insurance, travel or real estate agents and offices of not-for-profit organizations.

PUBLIC USES – Any one or more of the following Uses, including grounds and Accessory Buildings or Structures necessary for their Use:

- (1) Places of worship, cemeteries, parish houses and convents;
- (2) Public parks, playgrounds and recreational areas when authorized or operated by governmental authority;
- (3) Nursery schools, elementary schools, high schools, colleges or universities having curriculum approved by the Board of Regents of the State of New York;
- (4) Public libraries and museums; or
- (5) Not-for-profit fire, ambulance and public safety buildings.

PUBLIC UTILITY – Any facility or related equipment, including but not limited to all lines, pipes, transformers, poles, electrical or gas substations, pumping stations and similar facilities, telephone dial equipment centers, water treatment or storage facilities, etc., performing an essential public service and subject to special governmental regulation. Nonessential components of public utility operations, such as general storage and maintenance facilities, are excluded from this definition.

RECREATION, INDOOR – Includes, but is not limited to, bowling alley, theater, table tennis, pool hall, skating rink, gymnasium, Swimming Pool, hobby workshop, arcade and similar places of Indoor Recreation.

RECREATION, OUTDOOR - Includes, but is not limited to, golf courses, golf driving range, trap, skeet, and archery range, Swimming Pool, skating rink, riding stable, tennis court, recreation stadium, hunting preserve, and similar places of Outdoor Recreation.

RECREATION VEHICLE – A vehicle that is:

- (1) Built on a single chassis;

- (2) Designed to be self-propelled or permanently towable by a light duty truck; and is
- (3) Not designed for use as a permanent Dwelling but as temporary living quarters for recreational, camping, travel, or seasonal Use.

RECYCLABLES HANDLING AND RECOVERY FACILITY – A solid waste management facility, other than collection and transfer vehicles, at which recyclables are separated from the solid waste stream or at which previously separated recyclables are collected.

RELIGIOUS INSTITUTION - Church, temple, parish house, house of worship, convent, seminary or retreat house.

RESEARCH AND DEVELOPMENT FACILITIES –A facility which conducts scientific experiments, research or technical studies.

RESTAURANT – Any establishment, however designed, at which food is sold for consumption on site to patrons seated within an enclosed Building or elsewhere on the premises. A snack bar or refreshment stand at a public, semipublic or community Swimming Pool, playground, playfield or park, or an approved vendor operating the recreational facilities for the convenience of the patrons of the facility shall not be deemed to be a Restaurant.

RETAIL STORE – The sale of food, including food preparation for retail sale on the premises, retail sales of shoes, clothing, home furnishings, appliances, computers and electronic equipment, hardware, tools, paint and wallpaper, sport/hobby equipment, books, luggage, cards and gifts, jewelry, liquor, drugs, fabrics and flowers and similar items.

RIGHT-OF-WAY – A strip of land, either public or private, occupied or intended to be occupied by a street, sidewalk, trail, railroad, electrical transmission line, fiber optics cable, oil or gas pipeline, water main, sanitary or storm sewer or other similar use.

ROAD – A highway or street that facilitates traffic movement within the Town.

ROADSIDE STAND/SEASONAL FARM STAND – A permanent or temporary Structure for the sale of Agricultural products produced on the premises.

SCHOOL – Parochial, private and public school, college, university and Accessory Uses operated under the Education Law of the State of New York and recognized by the appropriate educational authorities; and shall exclude commercially operated schools of beauty, culture, business, dancing, driving, music and similar establishment.

SETBACK, MINIMUM FRONT – The least required horizontal distance between the Front Lot Line and all Buildings or Structures measured at the shortest point.

SETBACK, MINIMUM REAR - The least required horizontal distance between the Rear Lot Line and all Buildings or Structures measured at the closest point.

SETBACK, MINIMUM SIDE – The least required horizontal distance between the Side Lot Line and all Buildings or Structures measured at the closest point.

SIGN – refer to Article VII

SITE PLAN- A plan of a Lot or a subdivision on which is shown the topography, location or all Buildings, Structures, Roads, Right-Of-Ways, boundaries, utilities, all essential dimensions and bearings and any other information deemed necessary by the Planning Board.

SOLAR PHOTO-VOLTAIC PANEL – See Section 714.

STEEP SLOPE – A grade change of 15% or more.

STORAGE FACILITY, SELF-SERVICE – A Building or group of Buildings divided into separate units or compartments used to meet the temporary storage needs of businesses or persons. A warehouse operated for a specific commercial or industrial establishment shall not be considered a Self-Storage Facility.

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

SWIMMING POOL, PRIVATE – A Swimming Pool operated as an Accessory Use to a residential Dwelling Unit or units located on an individual residential Lot, as per New York State Building Code.

TEMPORARY OR SEASONAL OCCUPANCY – The use of any premises, Building or Structure for living and/or sleeping purposes for 180 days or less in any calendar year.

TEMPORARY OR SEASONAL STRUCTURE – A Structure that is intended to be used for a Permitted Use on a seasonal basis for 180 days or less in any calendar year.

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

UTILITY EQUIPMENT TRAILER – Any New York State registered trailer which may be towed and used for carrying or storing goods, equipment, machinery, construction materials, snowmobiles, boats, all-terrain vehicles (ATV), motor vehicles or as a site office.

VARIANCE, AREA – The authorization by the Zoning Board of Appeals for the use of land in a manner that 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 that is otherwise not allowed or is prohibited by the applicable zoning regulations.

WAREHOUSE - A place in which goods or merchandise are stored.

WIND DRIVEN GENERATORS, COMMERCIAL – Refer to the Town of Leicester Wind Energy Facilities Law.

WIND DRIVEN GENERATORS, RESIDENTIAL – Refer to the Town of Leicester Wind Energy Facilities Law.

ZONING BOARD OF APPEALS – The officially established Zoning Board of Appeals of the Town of Leicester.

ZONING MAP – The officially adopted Zoning Map for the Town of Leicester which shows all zoning districts and the respective boundaries of such zoning districts as set forth herein and as may be modified or amended from time to time by local law.

ZONING PERMIT – A permit issued by the Code Enforcement Officer stating that the purpose for which a Building or land is to be used is in conformity with the Uses permitted and all other requirements under this Chapter for the district in which it is located.

ARTICLE III: PERMITS AND APPLICATION PROCEDURES

SECTION 301 - PERMITS REQUIRED.

- A. No use of land or Structures shall be established, changed, or added, nor Building Permit granted, nor Structure erected, nor land developed or subdivided until a Zoning Permit has been approved by the Code Enforcement Officer, who shall approve such permits in accordance with the regulations in this Code.
- B. Application for a Building Permit shall be filed with the Code Enforcement Officer.
- C. Application for a Zoning Permit shall be filed with the Code Enforcement Officer.
- D. When a Building Permit is also required, pursuant to the NYS Uniform Fire Prevention and Building Code, as administered by the Town of Leicester, the application for a Zoning Permit shall be submitted before or at the same time as the application for a Building Permit.

SECTION 302 - CERTIFICATES AND PERMITS.

- A. The certificates and permits enumerated herein are hereby established for the equitable enforcement and administration of this Code. A Zoning Permit or Special Use Permit shall be the prerequisite to the erection or alteration, Use or change of use of a Building, Structure or land.

- B. ZONING PERMIT. The Code Enforcement Officer is hereby empowered to issue a Zoning Permit for any plans regarding the construction or alteration of any Building or part of any Building, or the change in use of any land or Building or part thereof, where it has been determined that such plans are not in violation of the provisions of this Code.
- C. SPECIAL USE PERMIT. Upon written direction of the Planning Board, the Code Enforcement Officer is hereby empowered to issue any Special Use Permit. Special Use Permit Uses are those Uses having some special impact or uniqueness which require a careful review of their location, design, configuration and special impact to determine, against fixed standards, the desirability of permitting their establishment on any given site. They are Uses which may or may not be appropriate in a particular location depending on weighing, in each case, of the public need and benefit against the local impact and effect.
- D. CERTIFICATE OF OCCUPANCY AND CERTIFICATE OF COMPLIANCE. The Code Enforcement Officer is hereby empowered to issue a Certificate of Occupancy and/or a Certificate of Compliance which shall certify that all provisions of this Code have been in compliance with respect to the location and use of the Building, Structure or premises in question. The Code Enforcement Officer is also empowered to issue a Certificate of Occupancy for Non-Conforming Uses, provided that the Non-Conforming Use is defined and the Sections of Non-Conformance with this Code are listed.

SECTION 303 - APPLICATION PROCEDURES.

A. PROCEDURES FOR A ZONING PERMIT.

1. All applications for a Zoning Permit shall be made to the Code Enforcement Officer in compliance with the requirements specified in Section 304. Where the proposed Use is a permitted Agricultural Operation or a Single or Two Family Dwelling or Accessory Use in a Residential District, the Code Enforcement Officer shall carefully consider the application for compliance with this Code and either issue or deny a Zoning Permit. When the application is for any other Use in any district, a preliminary Site Plan Application shall serve as the Zoning Permit application, and the Planning Board shall be responsible for reviewing compliance with this Code and directing the Code Enforcement Officer to approve with or without conditions, or deny an application.
2. Zoning Permits shall be issued in duplicate, and one copy shall be posted conspicuously on the premises while any alterations are being completed.

B. PROCEDURES FOR APPEAL. Should an applicant choose to appeal a decision by the Code Enforcement Officer denying issuance of a Zoning Permit, an application for an appeal shall be filled out and submitted along with supporting documents to the Zoning Board of Appeals for its review and determination. Where applicable under Section 239-m

and 239-n of the General Municipal Law, one copy of the application and all supporting materials shall also be referred to the County Planning Board.

- C. PROCEDURES FOR A SPECIAL USE PERMIT. All applications for a Special Use Permit must be made to the Code Enforcement Officer. The Code Enforcement Officer, after determining the application is in proper form and is a complete application, shall transmit one copy of the application and supporting documents to the Planning Board for action thereon. Where applicable under 239-m and 239-n of the General Municipal Law, one copy of the application and all supporting materials shall also be referred to the County Planning Board.
- D. PROCEDURES FOR A CERTIFICATE OF OCCUPANCY. Following the completion of the construction, reconstruction or alteration of any Building, or where a change in the use of a Building or Structure is proposed, the applicant shall transmit by registered mail or deliver in person to the Code Enforcement Officer a letter stating that such construction has been completed in accordance with this Code and all other regulatory requirements or that a new Use has been proposed. Within seven (7) days of the receipt of this letter, the Code Enforcement Officer shall make all necessary inspections of the completed Building or Structure or proposed Use to determine conformance with this Code. A Certificate of Occupancy shall be issued only if the Code Enforcement Officer finds that the construction or proposed Use complies with all the requirements and provisions of this Code.

SECTION 304 - MATERIALS REQUIRED WITH ALL ZONING PERMIT APPLICATIONS.

- A. The materials to be submitted with each application for a Zoning Permit shall clearly indicate the conditions on the site at the time of the application, the features of the site which are to be incorporated into the proposed Use or Building, and the appearance and function of the proposed Use or Building. The Official Town of Leicester Zoning Application form, filled-in completely and accurately, shall be used. At a minimum, the application shall include the following information and plans for both before and after conditions and shall be accompanied by the following (If Site Plan review is required, please see Section 306 for application requirements):
 - 1. Sketch Map drawn to scale and shall indicate:
 - a. The dimensions of the Lot and property boundary lines.
 - b. The exact size and location of all existing and proposed Buildings on the Lot.
 - c. The existing or proposed location of water and sewage disposal systems.
 - d. Existing and proposed parking areas and driveway locations.

- e. Natural watercourses, drainage ways and ponds.
 - f. Significant natural or environmental features such as wooded areas, rock outcroppings, and Steep Slopes (greater than 15%).
 - g. Location of any easements and Rights-Of-Way.
2. Location Map showing the location of the property within the Town, the street address, and the nearest cross streets.
 3. Evidence of property ownership, intent to purchase, or written and signed consent from the landowner authorizing the application for the proposed Use.
 4. Evidence of an approved driveway plan, as permitted by the State Department of Transportation, County Highway Superintendent, or Town Highway Superintendent, as appropriate.
 5. License or Permit: A currently valid license or permit for any use currently licensed or permitted by Federal, State, County or Town Agencies.
 6. Fee: The appropriate non-refundable fee established by the Town Board in its duly adopted fee schedule (which may be modified from time to time) shall be paid at the time of the application and collected by the Code Enforcement Officer.

SECTION 305 - ADDITIONAL MATERIALS REQUIRED WITH A ZONING PERMIT APPLICATION FOR SPECIAL USE PERMIT.

- A. When the Code Enforcement Officer, after review of the Zoning Application form, determines that a proposed Use requires a Special Use Permit, the following information shall be provided by the Applicant:
 1. The location and capacity of existing and proposed vehicular access ways and parking.
 2. The location and dimensions of any existing and proposed sidewalks, walkways or other areas established for pedestrian use.
 3. The design and treatment of existing and proposed open areas, Buffer areas, and screening devices, including dimensions of all areas devoted to lawns, trees, and other landscaping.
 4. Provisions for water supply, sewage disposal, and storm water drainage.
 5. The applicants name and address, telephone number and interest in the subject property.
 6. The Owner's name and address and telephone number if different from the applicant, and the Owner's signed consent to the filing of the application.

7. The street address or legal description of the subject property.
 8. An application for Site Plan Approval as required by Section 306 of this Chapter.
 9. An Agricultural Data Statement of the proposed use is located on or within 500 feet of a Agricultural or Farming Operation in a County Agricultural District.
 10. Any additional information which may be required or deemed desirable by the Code Enforcement Officer or the Planning Board to demonstrate compliance with any additional standards imposed on the Special Use Permit by any particular provision of this Code authorizing the Conditional Use.
- B. The official Town of Leicester Special Use Permit application form shall be used. The applicant shall demonstrate that the proposed Special Use Permit meets the standards as listed in Article III of this Code.
 - C. The Code Enforcement Officer may require the applicant to submit such other data and plans as may be required by the Code Enforcement Officer or the Planning Board to properly implement the intent of this Code and take action on the application.
 - D. The applicant shall submit Part 1 of the Full or Short Environmental Assessment Form as appropriate in order for the Planning Board to conduct an appropriate review under the New York State Environmental Quality Review Act (6 NYCRR Part 617)

SECTION 306 - SITE PLAN REVIEW.

Site Plan review by the Planning Board is required for all Uses except for Single-Family and Two-Family Dwellings and farm use. The official Town of Leicester Site Plan Application form shall be used, in accordance with the procedures in Article V, Section 510.

SECTION 307 - SUBDIVISION PLAN REVIEW.

Subdivision Plan review is required. Standards and procedures are specified in the Town of Leicester Subdivision Law.

SECTION 308 – FEES.

The Code Enforcement Officer shall collect permit and application fees. Fees shall be paid according to the fee schedule adopted and amended from time to time by the Town Board and in effect at the time of application. A fee schedule shall be posted at the Town Clerk’s office and also be available from the Code Enforcement Officer.

SECTION 309 – PROFESSIONAL CONSULTANT FEES REIMBURSEMENT.

- A. DEFINITIONS. As used in this Section, the following terms shall have the meanings indicated:

1. Applicant - Any person, firm, partnership, association, corporation, company, limited liability company or entity or organization of any kind that applies for a permit or approval for any of the following:
 - a. Acceptance by the Town Board for the dedication of sidewalks, highways, public rights-of-way, drainage facilities, parks or utilities.
 - b. Planning Board review or approval of site plans, subdivisions, Special Use Permits or special permits pursuant to relevant provisions of the Code of the Town of Leicester.
 - c. Zoning Board of Appeals approval of variances or special use permits under relevant provisions of the Code of the Town of Leicester.
 - d. Rezoning of real property in the Town by the Town Board.
 - e. The establishment of any improvement district in the Town, pursuant to Article 12, 12-A or 12-C of the New York State Town Law.
 - f. A certificate of occupancy from the Code Enforcement Officer in connection with a development or redevelopment within the Town.
 - g. Any other Application that shall require, at the discretion of the relevant Board, the review of an attorney or an engineer or other professional consultant retained by the Town.
2. Application - The formal request by an Applicant or Developer, as those terms are defined herein, for any permit or approval by the Town Board, Planning Board, Zoning Board of Appeals or Code Enforcement Officer for the items set forth hereinabove in Subsections a through g of the definition of "Applicant" in this section, along with the preparation of any and all plans and submittals submitted in connection therewith, including but not limited to any required review under the New York State Environmental Quality Review Act (SEQRA) or any other New York State or Federal guidelines or requirements.
3. Developer - Any person, firm, partnership, association, corporation, company, limited liability company or entity or organization of any kind, whether or not an Applicant, as defined hereinabove, that constructs or proposes to construct one or more Highways, Drainage Facilities, Utilities or Parks within or in conjunction with a Development and to convey or dedicate the same to the Town.
4. Development - Includes a subdivision, site plan, Special Use Permit, special permit or variance for which approval is required under the Code of the Town of Leicester and any construction of buildings, structures, drainage facilities, highways, parks or utilities to be undertaken in connection with any of the foregoing.

5. Drainage Facility - All surface water drainage facilities, including but not limited to catch basins, detention and retention ponds or basins, storm sewers or other forms of water conveyance facilities and their appurtenances, drainage swales and ditches, and any easements through or over which said facilities may be constructed or installed in or in connection with a development.
6. Highway - Includes a street, avenue, road, square, place, parking area, alley, lane, boulevard, concourse, parkway, driveway, overpass and underpass, or other form of public right-of-way for motor vehicle travel, and also includes all items appurtenant thereto, including but not limited to bridges, culverts, ditches, shoulders and sidewalks in or in connection with a Development.
7. Park - An area of land located within a Development which is open to the public and devoted to active or passive recreation, which may include dedicated open space.
8. Town - The Town of Leicester, the Town Planning Board, Assessor, Zoning Board of Appeals, Code Enforcement Officer or Town Board.
9. Utilities - All water, sanitary sewer, gas, electric, telephone, cellular, cable television facilities, fiber optic, Wind Energy Systems or Solar Energy Systems and any easements through or over which said facilities may be constructed or installed in or in connection with a development.

B. REIMBURSEMENT OF FEES AND EXPENSES.

1. The Applicant, for approval of any items set forth hereinabove in Subsections a through g of the definition of "Applicant" in Section 308 A. 1. above, shall reimburse the Town for all reasonable and necessary engineering, legal, other professional consulting fees and reasonable expenses incurred by the Town in connection with the review and consideration of the Application for such approval.
2. A Developer who constructs or proposes to construct one or more Highways, Drainage Facilities, Utilities, Parks, communications towers, antennas or accessory communications structures within or in conjunction with any development in the Town shall reimburse the Town for all reasonable and necessary legal, engineering, other professional consulting fees and other expenses (which shall also include the costs of any necessary studies with regard to the same) incurred by the Town in connection with the inspection and acceptance by the Town of such Highways, Drainage Facilities, Utilities, Parks, communications towers, antennas or accessory communications structures and the dedication of same to the Town, where applicable.
3. Notwithstanding anything to the contrary contained in this Section, an Applicant shall reimburse the Town for all reasonable costs of publication(s) relating to the Application.

C. EXCEPTIONS. Notwithstanding anything to the contrary contained in this Section, an Applicant or Developer shall not be required to reimburse the Town for any part of a legal,

engineering, other professional consulting fees or other expenses incurred by the Town for services performed in connection with legal action by a third party as to which the Town Board determines that the Applicant and/or Developer had no responsibility or which such legal action was beyond the reasonable control of the Applicant or Developer.

D. DEPOSIT OF ESCROW AND PAYMENT OF FEES.

1. Except as otherwise provided herein, simultaneously with the filing of an Application as defined herein, and prior to the commencement of any review of such Application and prior to the construction of Buildings, Highways, Drainage Facilities, Utilities or Parks therein, the Applicant or Developer, as the case may be, shall deposit with the Town Clerk a sum of money, in furtherance of Section 309 B., which such sum may be determined from time to time by the Town Board, or on a case-by-case basis upon the recommendation of the Town engineer or attorney and which such sum of money shall be used to pay the costs incurred by the Town for engineering and legal services and the services of other professional consultants as described in this Section.
2. The Applicant shall pay all engineering fees associated with an Application for subdivision approval as follows:
 - a. For concept approval: together with the Application for preliminary subdivision approval or within 90 days of disposition of the Application for concept approval, whichever is sooner.
 - b. For preliminary subdivision approval: together with the Application for final subdivision approval or within 90 days of the disposition of the Application for preliminary subdivision approval, whichever is sooner.
 - c. For final subdivision approval: prior to signature of the final subdivision plot by the Chairman of the Planning Board or within 90 days of the disposition of the Application for final subdivision approval, whichever is sooner.
3. Payment of all engineering and legal fees and the fees of other professionals associated with an Application for zoning variance or other relief from the Zoning Board of Appeals or the Planning Board (other than subdivision) shall be a condition of such Application and/or approval and shall be charged to and paid by the Applicant prior to the final filing of the resolution granting the relief sought or within 90 days of final disposition of the Application, whichever is sooner. Failure of the Applicant to reimburse the Town for such fees as required hereby shall result in revocation of the conditioned variance approval granted by the Zoning Board of Appeals.
4. Payment of all engineering and legal fees and the fees of other professional consultants associated with an Application for a building permit shall be a condition of such Application and/or approval and shall be charged to and paid by the Applicant prior to the issuance of any certificate of occupancy or within 90 days of final disposition of the Application, whichever is sooner.

5. Payment for engineering and legal costs and the costs of other professional consultants associated with inspection and sign-off on all improvements secured by a letter of credit shall be secured by said letter of credit by provision of additional security in the sum of 4% of the proposed improvement, secured for the Town's engineering and legal costs and the costs of other professional consultants, and 4% to secure the services of Applicant's engineer for site inspection purposes. This security shall not serve as a limit upon the obligation of the Applicant for the entire cost of the Town's engineering and legal costs and the costs of other professionals, which shall be fully payable, with or without recourse to the letter of credit, within 30 days of the inspection or sign-off, whichever is sooner.
6. Upon receipt of such sums, the Town Supervisor shall cause such moneys to be placed in a separate non-interest-bearing account in the name of the Town and shall keep a separate record of all such moneys so deposited and the name of the Applicant or developer and project for which such sums were deposited.
7. Upon receipt and approval by the Town Board of itemized vouchers from an engineer and/or attorney and other professional consultants for services rendered on behalf of the Town pertaining to the Application or Development, the Town Supervisor shall cause such vouchers to be paid out of the moneys so deposited and shall furnish copies of such vouchers to the Applicant or Developer at the same time such vouchers are submitted to the Town.
8. The Town Board shall review and audit all such vouchers and shall approve payment of only such engineering, legal fees and other professional consultant fees as are reasonable and necessarily incurred by the Town in connection with the review, consideration and approval of any Application for Development and the inspection of all construction and acceptance of Highways, Drainage Facilities, Utilities and Parks within or in conjunction with such Development. For purpose of the foregoing, a fee or part thereof is reasonable in amount if it bears a reasonable relationship to the average charge by engineers or attorneys or other professional consultants to the Town for services performed in connection with the approval or construction of a similar Development. In this regard, the Town Board may take into consideration the duration of the review process, changes to any submitted plans and/or specifications, the size, type and number of Buildings, Structures or facilities to be constructed; the amount of time to complete the Development; the topography of the land on which such Development is located; soil conditions; surface water; drainage conditions; the nature and extent of Highways, Drainage Facilities, Utilities and Parks to be constructed; and any special conditions or considerations that the Town Board may deem relevant. A fee or part thereof is necessarily incurred if it is was charged by the engineer or attorney or other professional consultant for a service which was rendered in order to protect or promote the health, safety, welfare, community character, compliance with the Comprehensive Plan or other vital interests of the residents of the Town or to protect public or private property from damage from uncontrolled surface water runoff and other factors and to assure the proper and timely construction of Highway, Drainage Facilities, Utilities and Parks and

protect the legal interest of the Town, including receipt by the Town of good and proper title to dedicated Highways and other facilities and the avoidance of claims and liability, and such other interests as the Town Board may deem relevant.

9. If at any time during or after the processing of such application or in the construction, inspection or acceptance of Buildings, Highways, Drainage Facilities, Utilities or Parks there shall be insufficient moneys on hand to the credit of such Applicant or Developer to pay the approved vouchers in full, or if it shall reasonably appear to the Town Supervisor that such moneys will be insufficient to meet vouchers yet to be submitted, the Town Supervisor shall cause the Applicant or Developer to deposit additional sums as the Supervisor deems necessary or advisable in order to meet such expenses or anticipated expenses.
 10. In the event that the Applicant or Developer fails to deposit such funds or such additional funds, the Town Supervisor shall notify, as applicable, the Chairman of the Planning Board, Town Board, Zoning Board of Appeals and/or the Town's Code Enforcement Officer of such failure, and any review, approval, building permit or certificates of occupancy may be withheld by the appropriate Board, officer or employee of the Town until such moneys are deposited.
 11. The issuance of a final certificate of occupancy or certificate of compliance shall not occur unless and until all fees incurred hereunder have been paid in full.
 12. After final approval, acceptance and/or the issuance of a certificate of occupancy or certificate of compliance relating to any specific Development, and after payment of all approved vouchers submitted regarding such Development, any sums remaining on account to the credit of such Applicant or Developer shall be returned to such Applicant or Developer, along with a statement of the vouchers so paid.
- E. **DEPOSIT AMOUNTS.** Unless otherwise provided herein, the amount of the initial deposit for the various Developments covered by this Section shall be set forth in a schedule of deposits established from time to time by resolution of the Town Board or in the event of an unusual or particularly sophisticated Application, on a case-by-case basis upon the recommendation of the Town engineer or attorney. Said schedule shall remain in effect and shall apply to all Applicants and Developers until amended or revised by subsequent resolution.
- F. **APPLICATION FEES.** The deposits required by this Section shall be in addition to any Application fees as may be required by other laws, rules, regulations, or ordinances of the Town and shall only be used to offset the specific expenses of the Town in connection with the Application for Development and shall not be used to offset the Town's general expenses for legal and engineering services and other professional consultant services for the several boards of the Town, nor its general administration expenses.
- G. **APPLICABILITY TO PENDING APPLICATIONS.** The provisions of this Section shall be effective regarding engineering and legal fees and other professional consultant fees

incurred from this date forward on pending Applications, after due notice to all pending Applicants.

- H. MUNICIPAL APPROVAL TO ADDRESS FEES. All resolutions or decisions disposing of municipal approval applications shall address the fees imposed in this chapter; provided, however, that the failure to do so does not constitute a waiver of the Town's right to charge and collect said fees or relieve the applicant from the obligation to pay said fees.
- I. WAIVER OF FEES BY TOWN BOARD. Upon proper application to the Town Board, the Board may, in its sole discretion, upon good cause shown, waive any or all of said fees, which waiver shall be effective only by resolution duly adopted by the Board.

ARTICLE IV: ENFORCEMENT

SECTION 401- DESIGNATION OF CODE ENFORCEMENT OFFICER.

The duty of administering and enforcing this Code is hereby conferred upon the Code Enforcement Officer (“CEO”). The CEO shall be appointed by the Town Board and receive compensation as the Town Board shall determine.

SECTION 402 - DUTIES OF THE CODE ENFORCEMENT OFFICER.

- A. It shall be the duty of the Code Enforcement Officer to keep a record of all applications for Zoning Permits and Building Permits and a record of all permits issued with a notification of all special conditions relating thereto. Such records shall be filed and shall be available for use by the Assessor of the Town of Leicester and the Town Clerk.
- B. It shall be the duty of the Code Enforcement Officer, or any duly authorized assistants, to cause any plans, Buildings, Structures or premises to be examined or inspected to determine that they are not in violation of this Code and to issue Certificates of Occupancy and/or Certificates of Compliance and permits.
- C. If, in the course of work, the Code Enforcement Officer determines that any plans, Buildings, Structures or premises are in violation of any provisions of this Code, he/she shall order the responsible party in writing to remedy such conditions. Said written order shall specify the nature of the violation found to exist, the remedy ordered and the time permitted for such action, the penalties and remedies which may be invoked, and the violator’s right to Appeal, all as provided for by this Code.
- D. On the serving of notice by the Code Enforcement Officer to the Owner of any property in violation of any of the provisions of this Code, the Certificate of Occupancy for such Building or Use shall be held null and void. A new Certificate of Occupancy shall be required for any further use of the Building or premises.

- E. The Code Enforcement Officer shall maintain a permanent record of all matters considered and all action taken. Such records shall form a part of the records of the office and shall be available for use by the Town Board and other municipal officials and available for inspection by the public.

ARTICLE V: ZONING BOARD OF APPEALS AND PLANNING BOARD

SECTION 501- CREATION AND APPOINTMENT OF THE ZONING BOARD OF APPEALS.

- A. The Zoning Board of Appeals (“ZBA”) is hereby created, pursuant to Section 267 of NYS Town Law.
- B. The Zoning Board of Appeals shall consist of five (5) members plus two (2) alternates to be appointed by the Town Board. Members shall hold staggered three (3) year terms of office. The alternates shall hold a one (1) year term of office.
- C. The Town Board shall fill a vacancy occurring, other than by expiration of term, by appointment for the unexpired term.
- D. The Town Board shall appoint the ZBA’s Chairperson, after receiving a non-binding recommendation provided by the ZBA. In the absence of the Chairperson, the members of the ZBA may designate a member to serve as acting Chairperson.
- E. No member of the Town Board shall be eligible for membership on the Zoning Board of Appeals.
- F. Members shall attend at least 75% of regular meeting in a calendar year. The Town Board may replace any member who does not attend at least 75% of said meetings or misses three consecutive meetings without good cause.
- G. Each member of the ZBA shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet the requirements of this subdivision. Such training shall be approved by the Town Board and may include, but not be limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college or other similar entity. Training may be provided in a variety of formats, including but not limited to, electronic media, video, distance learning and traditional classroom training.
 - 1. To be eligible for reappointment to such board, such member shall have completed the training promoted by the town pursuant to this subdivision.

2. The training required by this subdivision may be waived or modified by resolution of the Town Board when, in the judgment of the Town Board, it is in the best interest of the Town to do so.
3. No decision of a ZBA shall be voided or declared invalid because of a failure to comply with this section.

SECTION 502 – POWERS AND DUTIES OF THE ZONING BOARD OF APPEALS.

- A. INTERPRETATION. Upon Appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this Code, including determination of the exact location of any district boundary if there is uncertainty.
- B. VARIANCES: The ZBA shall hear requests for variances, upon denial of a Zoning Permit by the Code Enforcement Officer, according to the procedures and standards specified in this Code, and in Section 267 of Town Law.

SECTION 503 - MEETING PROCEDURES.

- A. All meetings of the ZBA shall be held at the call of the Chairperson, or at the request of the majority of the members and shall comply with the notice requirements of the New York State Open Meetings Law.
- B. The presence of three members shall constitute a quorum for the conduct of the business before the Board.
- C. All decisions shall be by majority vote of the membership, except in those cases where the County Planning Board has returned a recommendation of disapproval or approval with modification for an action referred to it pursuant to Section 239m or n of the General Municipal Law. In such cases a majority plus one vote shall be required for approval.
- D. All votes of the Zoning Board of Appeals shall be taken by roll call.
- E. In accordance with General Municipal Law, Section 809, a member of the Zoning Board of Appeals having a conflict of interest shall abstain from any discussion or voting on that matter.
- F. Pursuant to NYS Town Law Section 267, when an alternate member is designated by the Chairman to substitute for a regular member of the Board, it shall be recorded in the ZBA meeting minutes.
- G. The Zoning Board of Appeals may request and obtain any advice or opinions on the law relating to any matter before the Board from the Town Attorney, or request the Town Attorney to attend its meetings.

- H. The Zoning Board of Appeals may require the Code Enforcement Officer to attend its meetings to present any facts relating to a matter before the Board.
- I. All meetings of the Zoning Board of Appeals shall be open to the public.
- J. The Zoning Board of Appeals shall keep written minutes of all its meetings. The Zoning Board of Appeals shall appoint one of its members to serve as Secretary, and one as Vice Chairperson.
- K. The Zoning Board of Appeals may make a factual record of all its proceedings. The Secretary of the Zoning Board of Appeals shall take the factual record.

SECTION 504 - RULES AND EXPENSES.

- A. The Zoning Board of Appeals may adopt procedural rules or procedures for its operation, which are not in conflict with this Local Law, the laws of the State of New York, or applicable Federal Law.
- B. The Town Board shall provide an appropriation to the ZBA to cover necessary expenses, including those required to maintain a written record of its meetings and to hold public hearings.

SECTION 505 - GENERAL PROCEDURES.

- A. All Appeals and applications made to the Zoning Board of Appeals shall be in writing, on forms approved by the ZBA and available from the Code Enforcement Officer.
- B. Every Appeal or application shall refer to the specific provision of the Code involved.

SECTION 506 - STANDARDS FOR GRANTING VARIANCES.

When, in its judgment, the public safety, convenience and welfare will be served, the Zoning Board of Appeals may vary or modify the application of the regulations or provisions of this Code relating to the Use, construction or alteration of Structures or Use of the land. In such cases, the Board is empowered to grant exceptions in harmony with the general purpose and intent of this Code. Variances will be granted in appropriate and specific cases only after public notice and hearing and subject to such appropriate conditions and safeguards the Zoning Board of Appeals may impose.

- A. As used in this Code, a variance is authorized for height, area, size of the Structure, size of yards and open spaces or for establishment or expansion of a Use otherwise not allowed. A variance shall not be granted solely because of the presence of Non-Conformities in the zoning district or Uses in an adjoining zoning district. The ZBA, in the granting of Area Variances, shall grant the minimum variance that it shall deem necessary and adequate and

at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

B. VARIANCE PROCEDURES.

1. An application for the approval of a variance shall be made by an Owner of an interest in the property on forms available from the Zoning Clerk or Code Enforcement Officer and accompanied by the necessary fees and documents as provided in this Code and the regulations issued hereunder.
2. An application shall be accompanied by a map drawn to appropriate scale and showing all existing and proposed characteristics of the site and adjacent properties necessary for consideration of the variance request. For applications where Site Plan approval is also required, a preliminary Site Plan in accordance with this Code shall be required.
3. An application for a Use Variance in or within 500 feet of an Agricultural or Farming Operation in a county Agricultural District shall be accompanied by an Agricultural data statement.
4. An application for a Use Variance shall be accompanied by an affidavit by the applicant explaining that the application of zoning regulations has caused unnecessary hardship. For a Use Variance, the affidavit must be supported by sufficiently reliable evidence and documentation to prove each of the following:
 - a. That the applicant cannot realize a reasonable return, provided that lack of return is substantial, as demonstrated by competent financial evidence.
 - b. That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.
 - c. That the requested Use Variance, if granted will not alter the essential character of the neighborhood.
 - d. That the alleged hardship has not been self-created.
5. An application for an Area Variance shall be accompanied by a narrative answering the following:
 - a. Whether granting such Variance has the potential to produce undesirable change in the character of the neighborhood or a detriment to nearby properties.
 - 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 could have an adverse effect or impact on the physical environmental conditions in the neighborhood or district.
 - e. Whether the alleged difficulty was self-created.
6. The Zoning Board of Appeals shall fix a time and a place for a public hearing thereon and shall provide for the giving of notice as follows:
 - a. A notice shall be published in the official newspaper of the Town at least five days prior to the date thereof.
 - b. The Zoning Clerk shall mail a copy of such notice thereof to the applicant and a copy of such notice to all agencies, municipalities, authorities, etc., as prescribed in Section 267-a of the Town Law and 239 of the General Municipal Law.
 7. The Board shall approve, with or without conditions, or disapprove the application within 62 days of the conclusion of the public hearing, as specified in Section 267-a of Town Law and shall communicate its action, in writing, to the applicant and to the Code Enforcement Officer within one week of the time of the meeting at which the Board decided upon the application.
 8. When applicable, compliance shall be required in accordance with the provisions of Sections 239-m and 239-n of the General Municipal Law.
 9. The Code Enforcement Officer shall, upon receipt of the Notice of Approval and upon application by the applicant, collect all required fees and issue a Building Permit or such other approval permitting the Variance, subject to all conditions imposed by such approval.

SECTION 507 - CREATION AND APPOINTMENT OF A PLANNING BOARD.

The Town Board authorizes the appointment of a five (5) member Planning Board plus two (2) alternate members as more fully described in NYS Town Law Section 271. The terms of Planning Board members shall be staggered, as the law requires. Alternates shall hold one (1) year terms of office.

SECTION 508 - OFFICERS, RULES AND EXPENSES.

- A. The Town Board shall appoint a Chairperson of the Planning Board after receiving any non-binding recommendations by the Planning Board. On failure to do so, the Planning Board shall elect a Chairperson from its own members. The Planning Board may adopt rules or procedures for its operation that are consistent with NYS Town Law Section 271.

- B. The Town Board shall provide an appropriation to the Planning Board to cover necessary expenses including the means for the Planning Board to maintain a written record of its meetings and public hearings.
- C. Members shall attend at least 75% of regular meeting in a calendar year. The Town Board may replace any member who does not attend at least 75% of said meetings or misses three consecutive meetings without good cause.
- D. Each member of the Planning Board shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet the requirements of this subdivision. Such training shall be approved by the Town Board and may include, but not be limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college or other similar entity. Training may be provided in a variety of formats, including but not limited to, electronic media, video, distance learning and traditional classroom training.
 1. To be eligible for reappointment to such board, such member shall have completed the training promoted by the town pursuant to this subdivision.
 2. The training required by this subdivision may be waived or modified by resolution of the Town Board when, in the judgment of the Town Board, it is in the best interest of the Town to do so.
 3. No decision of a Planning Board shall be voided or declared invalid because of a failure to comply with this section.

SECTION 509 - DUTIES AND POWERS OF THE PLANNING BOARD.

- A. Review and comment on all proposed zoning amendments if requested by the Town Board.
- B. Conduct Site Plan Review as authorized by Town Law 274a. The Board will approve, approve with conditions or deny Site Plans in accordance of this Code.
- C. The Planning Board will approve plats showing Lots, blocks sites, with or without streets or highways, and conditionally approve preliminary plats and pass and approve the development of plats already filed in the office of the Clerk of Livingston County if such plats are entirely or partially undeveloped.
- D. Review and recommend approval with or without conditions or disapproval of Special Use Permit as authorized by this Code.
- E. Review Subdivision Applications as described in the Town of Leicester Subdivision Law.

- F. Render assistance to the Zoning Board of Appeals, if requested.
- G. Research and report on any matter referred to it by the Town Board.
- H. The Planning Board may consult with the Town Building inspector, Attorney for the Town, Fire Departments, Highway Department, County Planning Department and other local County officials, 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.

SECTION 510- PROCEDURES FOR SITE PLAN APPROVAL.

Site Plan review by the Planning Board is required for all Uses except for Single-Family and Two-Family Dwellings and Agricultural/Farming Operations. The official Town of Leicester Site Plan Application form shall be used, in accordance with Article III.

- A. The purpose of Site Plan review is to determine compliance with the objectives of this Chapter where inappropriate development may cause a conflict between Uses in the same or adjoining zoning district by creating conditions which could adversely affect the public health, safety or general welfare.
- B. Prior to the issuance of a Building Permit, Special Use Permit, Variance or other discretionary approval required from the Planning Board or Zoning Board of Appeals for construction, alteration or change of Use in any zoning district, except for a Single-Family or Two-Family Dwelling and related Accessory Uses, or an Agricultural/Farming Operation permitted by right, the Code Enforcement Officer shall require the preparation of a Site Plan. The Code Enforcement Officer shall refer the Site Plan to the Planning Board for its review and approval in accordance with the standards and procedures set forth in this Section.
- C. Sketch Plan Conference.
 - 1. Applicants are encouraged to meet with the Code Enforcement Officer and/or the Planning Board to review the basic site design concept and determine the information to be required on the preliminary Site Plan. The purpose of the sketch plan conference is to discuss with the applicant the project's conformity with this Code and to advise the applicant of other issues or concerns. The sketch plan conference provides an opportunity to indicate whether the proposal, in its major features, is acceptable or whether it should be modified before expenditures for more detailed plans are made.
- D. Required data. Information to be included on the sketch plan is as follows:
 - 1. An area map showing the parcel under consideration for Site Plan review and all parcels, Structures, subdivisions, streets, driveways, easements and permanent open space within 200 feet of the boundaries thereof or at the discretion of the Building and Zoning Department.

2. A map of site topography at no more than five-foot contour intervals or at the discretion of the Building and Zoning Department. If general site grades exceed 5% or if portions of the site have susceptibility to erosion, flooding or ponding, a soils overlay and topographic map showing contour intervals of not more than two feet of elevation should also be provided.
 3. General identification of all existing natural features and utilities on the site and in the area.
 4. The location of all existing and proposed Structures on the site and designated Uses for each.
 5. Identification of existing zoning classification(s) of the property and all adjacent properties and any restrictions on land use of the site.
- E. Preliminary Site Plan Application. Application for preliminary site plan approval. An application for preliminary site plan approval shall be made in writing to the Code Enforcement Officer and shall be accompanied by information drawn from the following checklist, as determined necessary by the Code Enforcement Officer at the sketch plan conference. All Site Plan information and building designs shall be prepared by a licensed architect or engineer.
- F. Preliminary Site Plan checklist. Additional design standards and directions regarding the items to be shown on specific plan sheets may be found in the administrative checklist and Leicester Design Criteria and Construction Specifications for Land Development available from the Building and Zoning Department. The preliminary Site Plan shall include:
1. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
 2. North arrow, graphic scale and date.
 3. Boundaries of the property, plotted to scale.
 4. The location of existing Lot Lines, easements, Structures, Roads, driveways and natural features within 200 feet of the proposed site or at the discretion of the Building and Zoning Department.
 5. Grading and drainage plan showing existing and proposed contours. The drainage plan shall also clearly explain the methodology used to project stormwater quantities and the resultant peak flow conditions.
 6. Location, proposed Use, hours of operation and height of all Buildings. Summary of the amount of square footage devoted to each Use requiring off-street parking or loading.

7. Number, location, design and construction materials of all parking and loading areas, showing access and egress. Location of reserved parking areas as may be required.
8. Provision for pedestrian access.
9. Size, type, location and screening of all facilities used for recycling and disposal of solid waste.
10. Location, dimensions and vehicle capacity of drive-in facilities and related queuing lanes.
11. Building elevation(s) showing Building massing, window and door spacing and treatments and other Architectural features and indication of building materials suitable to evaluate Architectural compatibility.
12. Location, purpose and holder of all proposed easements or dedications for utilities, recreation, conservation or other purpose.
13. Location, size, screening and type of material for any proposed outdoor storage.
14. Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and Fences.
15. Description of the type and quantity of sewage expected, the method of sewage disposal and the location, design and construction materials of such facilities.
16. Description of the type and quantity of water supply needed, the method of securing water supply, and the location, design and construction materials of such facilities.
17. Location of fire and other emergency zones, including the location of fire hydrants.
18. Location, design and construction material of all energy-distribution facilities, including electrical, gas and wind power and solar energy and other public utility facilities, such as cable or phone service.
19. Location, size, design and construction materials of all proposed Signs permitted pursuant to Article IIV.
20. Location of proposed Buffer areas, including existing vegetative cover.
21. Location, type, height, brightness and control of outdoor lighting facilities.
22. Size, location and proposed Use of any recreational areas for Multiple Family Dwellings.
23. Identification of permanent open space or other amenities that may be proposed.

24. A table summarizing each Building footprint, total size in square feet and number of stories; the number of Dwelling Units and the amount of square feet devoted to each Use type; size, in square feet or acres, of access, parking and circulation areas, and the number of loading, queuing and parking spaces; size in square feet of landscaped and natural open space; and size in square feet and text of all signs.
 25. A landscaping plan and planting schedule.
 26. Other elements integral to the proposed development as considered necessary by the Joint Planning Board, to include showing railroads or any other type of transportation facilities not specified.
 27. All forms and information pursuant to the New York State Environmental Quality Review Act (SEQRA).
 28. An Agricultural data statement if the proposed Use is located on or within 500 feet of a Agricultural or Farm Operation in a county Agricultural District.
- G. Required fee. The fee will be established by the Town Board as may be set from time-to-time on its fee schedule and shall be paid when the application is made.
- H. Planning Board Review of Preliminary Site Plan. The Planning Board's review of a preliminary Site Plan shall include, as appropriate, but is not limited to, the following:
1. General considerations as to:
 - a. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, Road widths, pavement surfaces, dividers and traffic controls for parking, loading and drive-in facilities. Conformance with any established access management standards, including but not limited to driveway spacing and provision of shared driveways and cross access easements.
 - b. Adequacy and arrangement of pedestrian 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 and general Architectural and site compatibility of Buildings, lighting, Signs and landscaping.
 - e. Adequacy of stormwater calculation methodology and stormwater and drainage facilities to eliminate off-site runoff and maintain water quality.
 - f. Adequacy of water supply and sewage disposal facilities.

- g. Size, location, arrangement and use of proposed or desired open space and adequacy of such open space to preserve scenic views and other natural features; to provide wildlife corridors and habitats; to provide suitable screening and buffering; and to provide required recreation areas.
 - h. Suitability of proposed hours of operation.
 - i. Protection of adjacent or neighboring properties against noise, glare, unsightliness or other similar nuisances.
 - j. Adequacy of community services, including fire, ambulance and police protection, and on-site provisions for emergency services, including fire lanes and other emergency zones, fire hydrants and water pressure.
 - k. Adequacy and unobtrusiveness of public utility distribution facilities, including those for gas, electricity, cable television and phone service. In general, all such utility distribution facilities shall be required to be located underground.
 - l. Conformance with any existing or future Comprehensive Master Plan and other planning studies.
 - m. Conformance with density, lot size, height, yard and lot coverage and all other requirements of zoning district regulations.
2. Applicant to attend Planning Board meeting. Applicant and/or duly authorized representative shall attend the meeting of the Planning Board.
 3. Site Plans shall also provide conformance with any current or future performance standards as duly established by the Town of Leicester.
 4. Consultant review. The Planning Board may consult with the Code Enforcement Officer, Fire Commissioners and other appropriate local and county officials and departments and its designated private consultants (including but not limited to attorneys, engineers or architects), in addition to representatives of federal and state agencies, including but not limited to the Natural Resources Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.
 5. Public hearing. The Planning Board may conduct a public hearing on the preliminary Site Plan. If a public hearing is considered desirable by a majority of the members of the Planning Board, such public hearing shall be conducted within 62 days of the receipt of the application for preliminary Site Plan approval and shall be advertised in a newspaper of general circulation in the Town at least five days before the public hearing.
 6. Planning Board Action on Preliminary Site Plan.

- a. Within 62 days after public hearing or within 62 days after the application was filed if no hearing was held, the Planning Board shall act on the application for preliminary Site Plan approval. The Planning Board's action shall be in the form of a written statement to the applicant, stating whether or not the preliminary Site Plan is approved, disapproved or approved with modifications.
 - b. 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.
7. Final Site Plan Approval Procedure. 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 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 Planning Board may also require a new public hearing. 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. All such compliance shall be clearly indicated by the applicant on the appropriate submission.
- a. The following additional information shall accompany an application for final Site Plan approval:
 - Record of application for and approval status of all necessary permits from local, state and county officials.
 - Construction details and final material specifications for all required improvements, and such improvements to be in conformance with any design criteria and/or performance standards duly adopted by the Town of Leicester.
 - An estimated project construction schedule.
 - A legal description of all areas proposed for municipal dedication.
 - A conservation easement or other recordable instrument executed by the Owner for any permanent open spaces created.
 - b. If no building permit is issued within one calendar year from the date of final Site Plan approval, the final Site Plan approval shall become null and void.

8. Referral to County Planning Board. Prior to taking action on the final Site Plan, the Planning Board shall refer the plan to the County Planning Board for advisory review and a report in accordance with § 239-m of General Municipal Law.
9. Planning Board Action on Final Site Plan.
 - a. Within 62 days of receipt of the application for final Site Plan approval, the Planning Board shall notify the Building and Zoning Department, in writing, of its decision.
 - b. Upon approval of the final Site Plan and payment by the applicant of all fees and reimbursable costs due and letter of credit, if required, the Planning Board shall endorse its approval on a copy of the final Site Plan. A copy of the approved final Site Plan shall be filed with the Building and Zoning Department and may be provided to the applicant.
 - c. Upon disapproval of a final Site Plan, the Planning Board shall so inform the Code Enforcement Officer, and the Code Enforcement Officer shall deny a building permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval.
10. Letter of Credit. No certificate of occupancy shall be issued until all improvements shown on the Site Plan are installed or, at the discretion of the Planning Board, an irrevocable letter of credit has been posted for improvements not yet completed. The letter of credit shall be approved as to form by the Municipal Attorney and as to amount by the Municipal Engineer. The member of the Planning Board designated to sign Site Plans shall not sign until a letter of credit, if required, has been received by the Building and Zoning Department and approved by the governing board.
11. Inspection of Improvements. The Code Enforcement Officer shall be responsible for the overall inspection of site improvements. The applicant shall be responsible for advance notice for inspection coordination with officials and agencies, as appropriate. The Code Enforcement Officer may retain the services of a qualified private consultant to assist with inspection of site improvements.
12. Integration of Procedures. Whenever the particular circumstances of a proposed development require compliance with either the Special Use Permit procedure or the requirements for the subdivision of land, the Planning Board shall attempt to integrate, as appropriate, Site Plan review as required by this section with the procedural and submission requirements for such other compliance.

SECTION 511- PROCEDURES FOR SPECIAL USE PERMITS.

- A. The Planning Board is hereby granted authority, pursuant to Section 274b of NYS Town Law, to review and recommend approval of Special Use Permits for uses listed in this Code, subject to the criteria specified in this Code.
- B. The Planning Board may also apply conditions to the Special Use Permit which are necessary to protect the general health, safety and general welfare of the community and to protect the character of the neighborhood from potential impacts of the Special Use Permit use.
- C. PROCEDURES.
 - 1. The Code Enforcement Officer shall refer the completed Special Use Permit application to the Planning Board within ten (10) days after receiving a completed application.
 - 2. At the next regular or special meeting, the Planning Board shall review the application and set a public hearing date within a reasonable period of time, not to exceed forty-five (45) days from the date the completed application was made or sixty (60) days in cases when the application must be referred to the County Planning Board in accordance with General Municipal Law Section 239m.
 - 3. The Town Planning Board shall send a notice of the public hearing to the applicant and publish a notice of the public hearing in the official newspaper, one of general circulation in the Town. The Planning Board shall give notice to the Municipal Clerk of an adjacent municipality when a public hearing is held for a Special Use Permit on property that is within five hundred (500) feet of the adjacent municipality pursuant to NYS Town Law Section 264. Such notice shall be given by mail or electronic transmission to the adjacent municipality at least ten (10) days prior to any such hearing.
 - 4. The notice of the Public Hearing shall contain sufficient information so as to identify the property involved and the nature of the proposed action and shall be sent and published at least ten (10) calendar days prior to the date of the public hearing.
 - 5. The Planning Board shall make a factual record of all its proceedings involving the consideration of a Special Use Permit. The decision of the Planning Board shall contain the reasons for its determination.
 - 6. The Planning Board shall render its decision, approving, approving with conditions, or denying, within forty-five (45) days after the hearing, unless an extension is mutually agreed upon between the applicant and the Planning Board.

D. FINDINGS.

1. The Planning Board may approve a Special Use Permit for uses permitted by Special Use Permit in the zoning district or districts involved provided that all the requirements and conditions set forth in this Code will be satisfied.
2. The Planning Board shall make written findings for each Special Use Permit decision. Findings shall state the reasoning behind, the basis for, and the evidence relied upon to reach the decision. Compliance with the requirements of this Code shall be substantiated.

E. SPECIAL USE PERMIT CRITERIA. A Special Use Permit shall be granted only if evidence is presented which establishes that;

1. The proposed Building or Use will be in harmony with the general purpose, goals, objectives and standards of any existing or future Comprehensive Plan, this Code and, where applicable the Town of Leicester Subdivision of Land regulations.
2. The proposed Building or hours of operation or Use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety and general welfare.
3. The proposed Building or Use will be constructed, arranged and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property in accordance with the applicable district regulations.
4. The proposed Building or Use will be adequately served by essential public facilities and services.
5. The proposed Building or Use complies with all additional standards imposed on it by the particular provision of this Code authorizing such use.
6. All steps possible have been taken to minimize any adverse effects of the proposed Building or Use on the immediate vicinity through Building design, site design, landscaping and screening.
7. If appropriate, a performance bond or other suitable financial guaranty has been provided to assure compliance with the conditions of the Special Use Permit.

SECTION 512 - STATE ENVIRONMENTAL QUALITY REVIEW (SEQR).

- A. The State Environmental Quality Review Act requires that local government examine the environmental impact of all actions they permit, fund, or construct. Article 8 and part 617 of Title 6 of the New York Code of Rules and Regulations are hereby adopted by reference.

- B. All actions (as defined by NYCRR Part 617) shall require the submission and review of an Environmental Assessment Form.
- C. For zoning action reviewed by the Town, the following bodies shall be lead agency unless otherwise designated by the Town Board:
- Zoning Text Adoption of Amendments – Town Board
 - Zoning District Amendment – Town Board
 - Special Use Permits – Planning Board
 - Subdivisions – Planning Board
 - Site Plan – Planning Board
 - Variances - Zoning Board of Appeals
- D. If in the opinion of the local lead agency, after appropriate review of the Environmental Assessment Form and findings thereon, there appears the potential for significant environmental impact, the lead agency shall cause the applicant to prepare a Draft Environmental Impact Statement.
- E. Review, notice and action on any Environmental Impact Statement shall be conducted according to Part 617 of 8 NYCRR.

SECTION 513 - REQUIRED REFERRALS TO THE COUNTY PLANNING BOARD.

New York State General Municipal Law Sections 239 l, m, and n require that any of the following local zoning actions be referred to the County Planning Board prior to action by the Local Board. Any proposal for a Special Use Permit, variance, Site Plan approval, change in the zoning law text or zoning map (rezoning, amending the zoning law) adoption or amendment of a comprehensive plan, or subdivision which would affect real property lying within a distance of 500 feet from the boundary of:

- Any County.
- Any Town.
- Any Village.
- Any existing or proposed County or State Park or other recreation area.
- Any Right-Of-Way of any existing or proposed County or State Road or parkway.

- Any existing or proposed Right-Of-Way of any of any stream or drainage channel owned by the County.
- Any existing or proposed County or State owned land on which a public building or institution is situated.
 - An Agricultural or Farm Operation located within an Agricultural District established pursuant to Article 25AA of NYS Agriculture & Markets Law (except this Sub-Paragraph shall not apply to Area Variances) shall be referred to the County Planning Board who shall have 30 days from the date of County receipt to take action on the matter. By mutual agreement of the County and the Municipality such 30 day period may be extended in special cases.

SECTION 513 - EFFECT OF COUNTY PLANNING BOARD REVIEW.

- A. If the County approves a referral, then the local Planning Board’s decision is governed by a majority vote.
- B. If the County recommends disapproval or approval subject to stated conditions or modifications, the local Planning Board may override the County opinion only by a majority plus one vote.

SECTION 514 - REPORT ON FINAL LOCAL ACTION.

Within thirty days after final action, the referring body shall file a report of the final action it has taken with the County Planning Agency or Regional Planning Council. A referring body which acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.

ARTICLE VI: ZONING DISTRICTS

SECTION 601- ZONING DISTRICTS ESTABLISHED.

The Town of Leicester is divided into the following types of zoning districts, which shall be differentiated according to Use and area:

- A Agricultural District
- R Residential District
- R-C Recreational – Commercial District
- B Business Use District
- I Industrial Use District

SECTION 602- OFFICIAL ZONING MAP.

The above districts shall be located, bounded and described as shown on the Zoning Map of the Town Leicester.

SECTION 603 – ZONING DISTRICT REGULATIONS.

- A. Except as herein provided, no Building or land shall hereafter be used or occupied, and no Building or part thereof shall be erected, moved or altered, unless in conformity with the allowable Uses and standards for development set forth for each zoning district by this Article. All Uses not explicitly listed as Permitted Uses within the regulations governing a given zoning district shall be deemed to be Non-Permitted Uses.
- B. Except as herein provided, no open space contiguous to any Building shall be encroached upon or reduced in any manner, except in conformity with the area requirements, off-street parking requirements, landscaping requirements and all other regulations designated in this Article for the zoning district in which such Building or use is located. In the event of any such unlawful encroachment or reduction, the relevant Building Permit, Use Permit or Certificate of Occupancy shall become void.

SECTION 604 - INTERPRETATION OF ZONING DISTRICT BOUNDARIES.

Where uncertainty exists with respect to the boundaries of any of the aforesaid zoning districts as shown on the Zoning Map, the following rules shall apply:

- A. Distances shown on the Zoning Map are perpendicular or radial distances from the Road lines measured back to the zoning district boundary line, which lines in all cases, where distances are given, are parallel to the Road line.
- B. Where zoning district boundaries are indicated as approximately following the center of Roads or highways, street lines or highway Right-Of-Way lines, such center lines, street lines or highway Right-Of-Way lines shall be construed to be such boundaries.
- C. Where zoning district boundaries are so indicated that they approximately follow the Lot Line, such Lot Lines shall be construed to be said boundaries.
- D. Where zoning district boundaries are so indicated that they are approximately parallel to the center lines or street lines of Roads or the center lines of Right-Of-Way lines of highways, such zoning district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated of the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
- E. Where the boundary of a zoning district follows a railroad line or is parallel thereto, such boundary shall be deemed to be located or shall be measured from a point midway between the main tracks of said railroad line.

- F. Where the boundary of a district follows a stream, river or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the Town of Leicester, unless otherwise designated. If no distance is given, the dimension shall be determined by the use of the scale shown on the Zoning Map.
- G. If an uncertainty still exists as to a boundary line following review of the above items, then the Zoning Board of Appeals shall determine such boundary location.

SECTION 605 – REGULATIONS APPLICABLE TO AGRICULTURAL (A) DISTRICT

- A. **INTENT** – The Agricultural (A) zoning district is intended to promote a balance of Agricultural Uses, open space, and low density residential development, along with other compatible uses that support Agriculture. Conservation of prime Agricultural and state significant soils is encouraged in this zoning district, and non-agricultural development is expected to be directed away from areas containing prime Agricultural soils.
- B. **PERMITTED USES.** Permitted Uses are subject to the requirements outlined in this Code and include the following:
 - 1. Agriculture, Farming Operations and Agribusiness including crop and Livestock farms, horse farms, vineyards, greenhouses, and orchards.
 - 2. Single-Family and Two-Family Dwellings, Seasonal Homes, Manufactured Homes-Doublewides, Modular Homes, private garages and Accessory Structures/Buildings.
 - 3. Seasonal Farm Stands and Farm Markets:
 - a. Produce, including fresh fruits, vegetables, flowers, herbs, Christmas trees, firewood, honey, jams, jellies, and maple products may be sold or offered for sale as an Accessory Use from a Lot where some portion of such produce is grown on the premises.
 - b. Farm Stands are Temporary or Seasonal Structures and must be secured in such a way to prevent them from becoming a safety hazard and must be removed at the end of the season.
 - c. Farm Markets (Permanent Structures) are subject to a Site Plan review by the Planning Board.
 - 4. Home Occupations shall be permitted for activities such as hairdressing, computer repair, electronics repair, woodworking, bicycle sales and repair, locksmith, taxidermy, tack sales and repair, licensed Home Day Care, and other Uses, which the Zoning Board of Appeals determines to be similar in scale and nature. Home offices are considered to be a Home Occupation and shall be permitted for professions such as a doctor, dentist,

veterinarian, attorney, architect, contractor, accountant, broker, surveyor, or other profession which the Zoning Board of Appeals may determine to be eligible for establishing a home office. The Code Enforcement Officer shall request an interpretation from the Zoning Board of Appeals before approving a Zoning Permit for any Home Occupation not listed herein. The following requirements shall apply to all Home Occupations:

- a. No more than two people other than members of the immediate family occupying such Dwelling shall be employed as part of a Home Occupation.
- b. A Home Occupation must be conducted within a Dwelling that is the primary residence of the principal practitioner or in an Accessory Building or Structure thereto which is normally associated with a residential Use.
- c. No more than twenty-five (25%) percent of the Gross Floor Area of a Dwelling shall be used for the conduct of a Home Occupation. No more than forty (40%) percent of an Accessory Building or Structure shall be used for a Home Occupation (except Garages).
- d. In no way shall the appearance of the Structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or the emission of sounds, noises or vibrations.
- e. No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home associated with a hobby or a vocation not conducted for gain or profit or machinery or equipment which is essential in the conduct of the Home Occupation.
- f. No outdoor display or goods or outside storage of equipment or materials used in the Home Occupation shall be permitted.
- g. No Use shall create noise, dust, vibration, odor, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than usually experienced in an average residential occupancy in the zoning district in question under normal circumstances wherein no Home Occupation exists.
- h. A Home Occupation shall NOT be interpreted to include the following: commercial stables and Kennels, Restaurants, musical and dancing instruction to groups exceeding four (4) pupils at one time, Convalescent Homes, mortuary establishments, garages or shops for the repair of motor vehicles and other trades and businesses of a similar nature.

- i. No signage shall be permitted except one non-illuminated announcement or professional Sign (which may or may not be attached to the Dwelling) that conforms to this Code's sign regulations
5. Plant Nurseries and Tree Farms – Retail and wholesale businesses for the propagation and sale of trees and plants, including Accessory Uses such as cold storage buildings and sales and/or shipping offices.
 6. Accessory Structures. Other customary residential Structures including but not limited to: gazebo, tool house, shed and similar building for storage of domestic supplies and noncommercial recreational equipment.
 7. Swimming Pools, private.
 8. Farm Labor Camp.
 - a. Subject to any limitations imposed by New York State Agriculture and Markets Law Article 25-AA §305-a, no housing site for an Agricultural or Farm Operation shall be relocated, added to and/or expanded or upgraded without permission by the Planning Board. Any additional Dwellings and/or Buildings being added to the original Site Plan will require an amended Site Plan to be filed as part of the Planning Board review process.
 9. Religious Institutions.
- C. USES PERMITTED WITH SPECIAL USE PERMIT. The Zoning Board of Appeals after a public hearing may authorize the issuance of a Special Use Permit subject to such safeguards, conditions and restrictions as the Zoning Board of Appeals shall deem necessary for the purpose of compliance with this Code for the following:
1. Ponds, Diked and Excavated.
 - a. Subject to any limitations imposed by New York State Agriculture and Markets Law Article 25-AA §305-a, no pond shall be constructed that exceeds one acre in size without being engineered and designed by an engineer duly licensed in the State of New York.
 - b. Subject to any limitations imposed by New York State Agriculture and Markets Law Article 25-AA §305-a, the following setbacks should be maintained for all ponds:
 - Minimum of 100 feet from all public highways to the water's edge.
 - Minimum of 100 feet from all property lines to the water's edge.
 - No earth fill will be allowed within seventy-five (75) feet of any property line.
 2. Veterinarian offices and Animal Hospitals.

3. Parks and Recreation Areas, including but not limited to parks, playgrounds, athletic fields, golf courses, Equestrian Facilities (riding stables and riding arenas).
4. Kennels for the boarding or breeding of cats and dogs.
5. Cemeteries – human or animal.
6. Bed & Breakfasts, Tourist Homes.
7. Day Care facility located in a private Dwelling and regulated by Article 390 of the Social Services Law of New York State.
8. Educational/recreational camps.
9. Manufactured Home Parks – Required to be connected to a public water and sanitary sewer system.
10. Sportsman Club.
11. Public Utility, except maintenance and storage yards.
12. Excavation of or Stripping of Topsoil/Sod. Issuance of a Special Use Permit shall be subject to the following conditions:
 - a. An application for a Special Use Permit for the removal of top soil or sod shall state the details of the plan for the reconditioning and rehabilitation of the land after stripping. Such plan shall include the details of preparation of the surface of the land and the liming, fertilization and seeding and shall be subject to the review and approval of the Zoning Board of Appeals as to the sufficiency of the plan. No Special Use Permit shall be issued until the rehabilitation plan provided in the application has been approved by the Zoning Board of Appeals Board.
 - b. Excavation for the removal of topsoil or sod shall be limited to not more than one acre at any given time from any one tract of land until full compliance with this Article is obtained under any existing Special Use Permit for the same tract.
 - c. No Special Use Permit to strip or remove topsoil shall be granted for any land, which, after such stripping or removal, will leave depressions for the accumulation of water. Hill, mound or elevated surface earth and subsoil excavation, when removed from the premises, shall be subject to the provisions of this Article and the requirements set forth in this Subsection.
 - d. The surface topsoil or earth for a minimum depth of six (6) inches shall be stripped from the area to be excavated and piled on the premises for restoration purposes. After the earth and subsoil excavation operation is complete, the piled surface topsoil or earth shall be restored to the area from which it was removed.

- e. The excavation of earth and subsoil operation shall be limited in depth to an established final elevation equal to the average surrounding area elevation within a perimeter of two- hundred (200) feet of the operation unless otherwise approved by the Zoning Board of Appeals. The excavation of or stripping of topsoil or sod shall not adversely affect the surrounding properties.
- f. Dust-down, or its equivalent, shall be used and spread to prevent dust.
- g. A Special Use Permit shall not be authorized or issued for an area in excess of five percent (5%) of the Gross Area of the premises during any calendar year.
- h. Subsequent Special Use Permits for such stripping shall not be authorized or issued for any premises unless the provisions of this Section have been met and the conditions stated in any previous application have been fulfilled to the satisfaction of the Zoning Board of Appeals.
- i. No Special Use Permit shall be authorized or issued for the stripping of topsoil or sod from any premises on which any real property taxes have not been paid.
- j. The provisions of this Section shall not apply to the removal and sale of alluvial deposits resultant from stream erosion, or of the materials excavated resultant from the establishment of a farm pond or fire protection pond for which a permit has been issued.
- k. The removal of topsoil shall not endanger the productivity of the area to be stripped.
- l. No Special Use Permit to strip or remove topsoil shall be granted for any land which is subject to flooding or which will adversely affect the drainage of any adjacent lands.
- m. FEES/COMPLIANCE UNDERTAKING.

- Upon issuance of a Special Use Permit authorized by the Zoning Board of Appeals, the Town Clerk shall charge and collect, pursuant to this Article, fees as provided by resolution of the Town Board which may be established from time to time.
- An acceptable bond or cash deposit shall be posted with the Town to ensure an applicant's compliance with the regulations set forth in this Section, which bond or cash deposit shall be determined by the Zoning Board of Appeals but in no event shall be less than \$2,000.00 for each excavation or removal.

13. Type 2 Solar Energy Systems, subject to the requirements of Section 714.

D. ACCESSORY USES.

1. Signs in accordance with Article VII.
2. Parking in accordance with Article VII.
3. Lighting in accordance with Article VII.
4. Accessory Structures.
5. Alternative Energy Systems in accordance with Article VII, excepting any Type 2 Solar Energy Systems.
6. Fences in accordance with Article VII.
7. Keeping of Animals in accordance with Article VII.

E. PROHIBITED USES.

1. Industrial Uses.
2. Adult Entertainment Uses.
3. Any Use not specifically listed as a Permitted Use, Use Permitted with a Special Use Permit or permitted Accessory Use shall be deemed to be a non-permitted or prohibited Use.

F. SITE REQUIREMENTS. Subject to any limitations imposed by New York State Agriculture and Markets Law Article 25-AA §305-a, the following minimum requirements shall apply to all Uses within the Agricultural (A) zoning district, excepting for Type 2 Solar Energy Systems, which shall be governed by Section 714:

1. Minimum Area – 5 acres.
2. Minimum Lot Width – 400 feet.
3. Minimum Lot Depth – 100 feet.
4. Minimum Set Backs for Principal Buildings:
 - a. Front Set Back– 60 feet from center line of roadway.
 - b. Side Set Back– 40 feet from Lot Line.
 - c. Rear Set Back– 75 feet from Lot Line.
5. Minimum Site Requirements for Accessory Buildings:

- a. Minimum Side Setback – 40 feet from Lot Line.
 - b. Minimum Rear Setback– 30 feet from Lot Line.
 - c. Maximum Building Height – 35 feet.
6. Minimum Setback for pit or ground silos:
- a. 100 feet from the centerline of a Road.
7. Maximum Building Height:
- a. Grain bins and Silos – no limitation.
 - b. Buildings and Structures used for Dwellings or Non-Agricultural Uses – 35 feet.
 - c. Principal Building – 35 feet.
8. Maximum Building Coverage - 5% of the Lot.
9. Minimum Floor Area – 1,000 square feet.

SECTION 606 – REGULATIONS APPLICABLE TO RESIDENTIAL (R) DISTRICT

A. PERMITTED USES. Permitted Uses are subject to the requirements outlined in this Code and include the following:

- 1. Agriculture and Agribusiness including vineyards, greenhouses, and orchards.
- 2. Single-Family and Two-Family Dwellings, Seasonal Homes, Manufactured Homes and Doublewides (not including Manufactured Homes Parks), Modular Homes, private Garages and Accessory Structures/Buildings.
- 3. Home Occupations shall be permitted for activities such as hairdressing, computer repair, electronics repair, woodworking, bicycle sales and repair, locksmith, taxidermy, tack sales and repair, licensed Home Day Care (child care), and other Uses, which the Zoning Board of Appeals determines to be similar in scale and nature. Home offices are considered to be a Home Occupation and shall be permitted for professions such as a doctor, dentist, veterinarian, lawyer, architect, contractor, accountant, broker, surveyor, or other profession which the Zoning Board of Appeals may determine to be eligible for establishing an office in conjunction with the home. The Code Enforcement Officer shall request an interpretation from the Zoning Board of Appeals before approving a Zoning Permit for any Home Occupation not listed herein. The following requirements shall apply to all Home Occupations:

- a. No more than two people other than members of the immediate family occupying such Dwelling shall be employed as part of a Home Occupation.
- b. A Home Occupation must be conducted within a Dwelling that is the primary residence of the principal practitioner or in an Accessory Building or Structure thereto which is normally associated with a residential Use.
- c. No more than twenty-five (25%) percent of the Gross Floor Area of a Dwelling shall be used for the conduct of a Home Occupation. No more than forty (40%) percent of an Accessory Building or Structure shall be used for a Home Occupation (except Garages).
- d. In no way shall the appearance of the Structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or the emission of sounds, noises or vibrations.
- e. No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home associated with a hobby or a vocation not conducted for gain or profit or machinery or equipment which is essential in the conduct of the Home Occupation.
- f. No outdoor display or goods or outside storage of equipment or materials used in the Home Occupation shall be permitted.
- g. No Use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than usually experienced in an average residential occupancy in the zoning district in question under normal circumstances wherein no Home Occupation exists.
- h. A Home Occupation shall NOT be interpreted to include the following: commercial stables and Kennels, Restaurants, musical and dancing instruction to groups exceeding four (4) pupils at one time, Convalescent Homes, mortuary establishments, garages or Motor Vehicle Service Stations and other trades and businesses of a similar nature.

4. Religious Institutions.

5. Municipal Buildings and services.

6. Public schools, public parks and playgrounds.

7. Swimming Pools, Private.

B. USES PERMITTED WITH SPECIAL USE PERMIT. The Zoning Board of Appeals after a public hearing may authorize the issuance of a Special Use Permit subject to such

safeguards, conditions and restrictions as the Zoning Board of Appeals shall deem necessary for the purpose of compliance with this Code for the following:

1. Ponds, diked and excavated.
2. Seasonal farm stands and farm markets.
3. Bed & Breakfasts, Tourist Homes.
4. Home Day Care facility located in a private Dwelling and regulated by Section 390 of the Social Services Law of New York State.
5. Public Utilities, except maintenance and storage yards.
6. Funeral Homes.
7. Multiple Family Dwellings.

C. ACCESSORY USES.

1. Signs in accordance with Article VII.
2. Parking in accordance with Article VII.
3. Lighting in accordance with Article VII.
4. Alternative Energy Systems in accordance with Article VII, excepting any Type 2 Solar Energy Systems.
5. Fences in accordance with Article VII.
6. Keeping of animals in accordance with Article VII.

D. PROHIBITED USES.

1. Industrial Uses.
2. Adult Uses.
3. Any Use not specifically listed as a Permitted Use, Use Permitted with a Special Use Permit or permitted Accessory Use shall be deemed to be a Non-Permitted or Prohibited Use.

E. SITE REQUIREMENTS. The following minimum requirements shall apply to all Uses within the Residential (R) zoning district:

1. Maximum Lot Area – Less than 5 acres.

2. Minimum Lot Width and Area:

a. Single and Two-Family Dwellings:

- Serviced by a Municipal water supply:

- Minimum Lot Width – 100 feet.

- Minimum Lot Area – 20,000 feet*

* A larger minimum Lot size shall be required when the County Health Department determines, after reviewing the soils and percolation (“perc”) test data that a larger Lot size is necessary for adequate operation of an on-site sewage disposal system.

- No Municipal water supply:

- Minimum Width – 200 feet.

- Minimum Depth – 200 feet.

- Minimum Lot Area – 40,000 square feet*

* A larger minimum Lot size shall be required when the County Health Department determines, after reviewing the soils and percolation (“perc”) test data that a larger Lot size is necessary for adequate operation of an on-site sewage disposal system.

b. Multiple Family Dwellings:

- Serviced by a Municipal water supply:

- Minimum Width – 150 feet.

- Minimum Lot Area – 37,500 feet*

- Non Municipal Water supply:

- Minimum Width – 250 feet.

- Minimum Depth – 250 feet.

- Minimum Lot Area – 62,000 feet.*

* A larger minimum Lot size shall be required when the County Health Department determines, after reviewing the soils and percolation (“perc”) test data that a larger Lot size is necessary for adequate operation of an on-site sewage disposal system.

3. Minimum Set Backs:

- a. Front Set Back – 60 feet from centerline of Road.
- b. Side Set Back – 20 feet from Lot Line.
- c. Rear Set Back – 60 feet from Lot Line.

4. Maximum Building Coverage – 30% of Lot.

5. Minimum Floor Area – 1,000 square feet.

6. Maximum Building Height:

- a. Principal Building – 35 feet.

7. Accessory Buildings - Site Requirements:

- a. Minimum Side Setback – 10 feet from Lot Line.
- b. Minimum Rear Setback - 10 feet from Lot Line.
- c. Maximum Building Height – 20 feet.
- d. Maximum Building Coverage – 20% of lot.
- e. Maximum Gross Floor Area – 1,200 square feet

SECTION 607- REGULATIONS APPLICABLE TO RECREATIONAL – COMMERCIAL (R-C) USE DISTRICT.

A. PERMITTED USES. No Structure or premises shall be used and no Building or Structure shall be erected or structurally altered except for one or more of the following Uses:

- 1. Competition Sporting Events utilizing a “drag-strip” and/or an oval track and a racetrack or racetracks for the use of any motorized vehicles, including but not limited to automobiles, “stock cars”, “dragsters”, “go-carts”, motorcycles, farm tractors or snowmobiles.

2. Supporting Accessory Structures that are typically necessary for the business operation including but not limited to Garages, motor pits or paddocks, ticket booth, parking lots, bleachers and/or a stadium.
 3. Temporary camping areas for tents and trailers during scheduled events.
 4. Concession stands.
 5. Social clubs and attendant social activities both public and private.
 6. Auto testing, both individually and by manufacturers.
 7. Tractor pulling events.
 8. Rodeos and Equestrian events.
- B. USES PERMITTED WITH SPECIAL USE PERMIT.** The Zoning Board of Appeals after a public hearing may authorize the issuance of a Special Use Permit subject to such safeguards, conditions and restrictions as the Zoning Board of Appeals shall deem necessary for the purpose of compliance with this Code for the following:
1. Local fairs and carnivals.
 2. Outdoor music concerts.
 3. Fireworks displays.
 4. Public Utility, except maintenance and storage yards.
- C. ACCESSORY USES.**
1. Signs in accordance with Article VII.
 2. Parking in accordance with Article VII.
 3. Lighting in accordance with Article VII.
 4. Alternative Energy Systems in accordance with Article VII, excepting any Type 2 Solar Energy Systems.
 5. Fences in accordance with Article VII.
 6. Keeping of animals in accordance with Article VII.
- D. PROHIBITED USES.**
1. Adult Entertainment.

2. Residential Uses.
3. Industrial Uses.
4. Any use not specifically listed as a Permitted Use, Use Permitted with a Special Use Permit or permitted Accessory Use shall be deemed to be a Non-Permitted or Prohibited Use.

E. GENERAL REGULATIONS.

In each case where a Building or Use is proposed in this district pursuant to the provisions hereof, the Code Enforcement Officer shall refer the plans, description of the purposed Use, and a proposed Site Plan to the Planning Board for Site Plan review pursuant to Article V, Section 510. Such Board may hold a public hearing thereon and shall determine:

1. Whether all the requirements of this Code have been met.
2. Whether the health, safety, morals and general welfare of the community would be protected if Site Plan approval was granted.
3. Whether said Site Plan should be approved as submitted or subject to such conditions, restrictions and safeguards as may be necessary by said Board, or be disapproved.

F. SITE REQUIREMENTS.

1. Minimum Set Backs:
 - a. Front- 150 feet – from centerline of Road.
 - b. Side –at least 100 feet from Lot Line, but no less than 200 feet from any residential Use.
 - c. Rear - 100 feet from Lot Line.
 - d. Accessory Buildings – Minimum Set Backs:
 - Side – 10 feet from property line.
 - Rear – 10 feet from property line.
 - e. Maximum Building Height:
 - Principal Building – 35 feet.
 - Accessory Building – 35 feet.

SECTION 608 - REGULATIONS APPLICABLE TO BUSINESS USE DISTRICTS (B).

- A. INTENT – It is the intent of this zoning district to provide areas which will accommodate Commercial Uses within the Town. The standards provided herein are designed to assure the development of safe, convenient and attractive shopping and service facilities.
- B. PERMITTED USES. In the Business District the Permitted Uses shall be as follows, subject to the requirements specified below and elsewhere in this Code, especially Site Plan review pursuant to Article V, Section 510.
1. Professional Offices occupying less than 10,000 square feet of building area, including medical and other business offices, such as but not limited to attorneys, accountants, architects, engineers, doctors, dentists, other medical specialists, psychiatrists, psychologists, therapists, chiropractors, insurance, travel or real estate agents and offices of not-for-profit organizations.
 2. Services occupying less than 10,000 square feet of building area and including consumer, personal and business services, such as but not limited to banks, self-service laundries and dry-cleaning outlets, tailors, repair shops (shoe, appliance, etc.), mini storage, barbershops, beauty salons, tanning salons, copy shops, video stores and art, craft or dance schools.
 3. Retail Stores occupying less than 10,000 square feet of building area and including stores selling goods at retail to individual and business customers, such as but not limited to sales of food including food preparation for retail sale on the premises, shoes, clothing, home furnishings, appliances, computers and electronic equipment, hardware, paint and wallpaper, sport/hobby equipment, books, luggage, cards and gifts, jewelry, liquor, drugs, fabrics and flowers.
 4. Indoor Commercial Recreation facilities occupying less than 40,000 square feet of building area in a completely enclosed Building, including facilities for fitness activities, such as running, swimming, competitive sports, bowling or skating, and other Recreational Uses, such as arcades, performing arts centers or pool halls and other similar activities.
 5. Bed and Breakfast Dwelling, Tourist Homes.
 6. Mixed Use Structures combining Permitted Commercial Use(s) on the first floor or street side of a Building and Residential Use on the upper floor(s) or to the rear of the Building.
 7. Unless exempted by New York State Agricultural and Markets Law Article 25-AA, only Agricultural or Farming Operations in lawful existence as of the date of adoption of this Section shall be allowed to continue and shall be considered a Permitted or Conforming Use.

8. Restaurants, including accessory outdoor dining facilities.
9. Private clubs.
10. Public Use, such as place of worship, park, school.
11. Salesroom or shop of a builder, contractor or artisan.
12. Funeral Homes.

C. **USES PERMITTED WITH SPECIAL USE PERMIT.** The Zoning Board of Appeals after a public hearing may authorize the issuance of a Special Use Permit subject to such safeguards, conditions and restrictions as the Zoning Board of Appeals shall deem necessary for the purpose of compliance with this Code for the following:

1. Bar, Tavern or any Use, other than a Restaurant, which is licensed to provide alcoholic beverages for on-premises consumption.
2. Residential care facility.
3. Outdoor Commercial Recreation Facility, such as a batting cage, driving range, miniature golf course, water or amusement park, performing arts center, or uses of similar nature.
4. Accessory outdoor sales or storage of goods, materials or equipment.
5. Movie theater.
6. Public Utility, except maintenance and storage yards.
7. Use containing a Building or Structure larger than 40,000 square feet.
8. Drive-In Facility.
9. Hotel/Motel.
10. Outpatient health center.
11. Motor Vehicle Service Station or Sales, Repair or Motor Vehicle Washing establishment.
12. Convenience stores with retail fuel sales.
13. Warehouse facilities.
14. Garages, Gas Stations, and Motor Vehicle Sales Area.
15. Manufactured Home Parks.

16. Other Uses which, in the opinion of the Zoning Board of Appeals, are in the same general character as those listed as Permitted Uses or Uses Permitted with a Special Use Permit and will not be detrimental to the zoning district in which they are located.

D. ACCESSORY USES.

1. Signs in accordance with Article VII.
2. Parking in accordance with Article VII.
3. Lighting in accordance with Article VII.
4. Alternative Energy Systems in accordance with Article VII, excepting any Type 2 Solar Energy Systems.
5. Fences in accordance with Article VII.
6. Private Garage space for the storage of commercial vehicles used in conjunction with a Permitted Business Use.

E. PROHIBITED USES.

1. Commercial operations whose Principal Use is the storage, production, or sale of hazardous or radioactive materials, as defined by the United States Department of Transportation in Title 49 of the United States Code.
2. Commercial operations which in any part involve the slaughtering or processing of animals, poultry or fish, including the parts thereof.
3. Expansion of pre-existing Non-Conforming Residential Uses.
4. Wholesale bulk fuel storage.
5. Landfills.
6. Commercial feedlots.
7. Adult Entertainment Uses.
8. Keeping of Livestock.
9. Any use not specifically listed as a Permitted Use, Use Permitted with a Special Use Permit or permitted Accessory Use shall be deemed to be a Non-Permitted or Prohibited Use.

F. SITE REQUIREMENTS.

1. Building Height- maximum height: 35 feet.
2. Required Lot Area.
 - a. Minimum Lot Width: 200 feet.
 - b. Lot Size. Required Lot size shall be established by the Planning Board during the Site Plan review and approval process. The required minimum Lot size shall be based on the amount of land necessary to accommodate adequately the proposed Principal Use and any intended Accessory Uses and associated parking, loading and planted open space areas while respecting setback requirements and on-site circulation needs, including pedestrians, vehicles and emergency vehicles. If the Lot size cannot meet the applicable standards of the proposed Use for circulation, parking, landscaping, lot coverage and setbacks, the Planning Board may require a reduction in scale or intensity of the Use or the combination of Principal and Accessory Uses and/or Conditionally Permitted Uses before taking action on a Site Plan.
 - c. Maximum Percentage of Lot coverage – 40%.
 - d. Minimum Setbacks:
 - Front setback – 50 feet.
 - Side setback – 25 feet.
 - Rear setback – 50 feet.

SECTION 609 - REGULATIONS APPLICABLE TO INDUSTRIAL USE (I) DISTRICTS.

- A. INTENT. The intent of the Industrial Use District is to identify and set aside areas within the Town of Leicester that are most appropriate for Industrial-Related Uses. Accommodation of new Industrial Uses is intended to maintain a balanced tax base and to provide employment opportunities for local residents. Suitable locations for Industrial Uses are easily accessible for state highways and are appropriately buffered from Residential and Commercial Uses.
- B. PERMITTED USES. No Structure or premises shall be used and no Building or Structure shall be erected or structurally altered except for one or more of the following Uses:
 1. Plants for canning, preserving, processing or manufacturing all types of food derivatives.
 2. Cold storage plants.
 3. Manufacturing and storage Uses limited to the following processes and products:

- a. Bakeries or baking plants.
 - b. Bottling works.
 - c. Construction materials storage yards.
 - d. Creameries, milk condensing or dairy plants.
4. Laundries.
 5. Lumber yards.
 6. Rental of Self Service Storage Facilities involving no outdoor storage of materials or equipment.
 7. Professional Offices.
 8. Research and Development facilities.
 9. Service industries of the type that provide service to other industries rather than the needs of the retail customers.
 10. Production, processing and assembly operations, provided that such uses are conducted entirely within an enclosed Building.
 11. Manufacturing of electrical, electronic or optical instruments or devices.
 12. Manufacturing, assembly or fabrication of small machine parts, office and household machinery or appliances or tool and die products.
 13. Fabrication of paper products, such as packaging materials, office and household supplies, stationary and toys.
 14. Packaging of products from previously prepared materials, such as cloth, plastic, paper, leather or precious or semiprecious metal or stones.
 15. Graphic arts and related light-printing operations.
 16. The processing of plastics and chemical products from manufactured or refined products into finished goods.
 17. Fabrication of wood products from pre-milled and finished wood materials.
 18. Wholesale production of food products.

19. Unless exempted by New York State Agricultural and Markets Law Article 25AA, only Agricultural or Farming Operations which are in lawful existence as of the date of adoption of these regulations shall be allowed to continue and shall be considered as a Permitted or a Conforming Use.
20. Other Uses which, in the opinion of the Zoning Board of Appeals, are of the same general character as those listed as Permitted Uses and which will not be detrimental to the zoning district in which they are located.

C. ACCESSORY USES.

1. Signs in accordance with Article VII.
2. Parking in accordance with Article VII.
3. Garage or other Accessory Structure which is necessary to store materials, vehicles or equipment related to the lawful Principal Use of the property.
4. Alternative Energy Systems in accordance with Article VII, excepting any Type 2 Solar Energy Systems.

D. USES PERMITTED WITH SPECIAL USE PERMIT. The Zoning Board of Appeals after a public hearing may authorize the issuance of a Special Use Permit subject to such safeguards, conditions and restrictions as the Zoning Board of Appeals shall deem necessary for the purpose of compliance with this Code for the following:

1. Garages, Gas Stations/Convenience Stores and Motor Vehicle Sales Areas or Agricultural equipment sales agencies.
2. Public Utility.
3. Motor Vehicle Repair facility.
4. Private heliport. The facility must conform to all Federal Aviation Administration regulations and standards.
5. Adult Entertainment Use in accordance with Town of Leicester Adult Entertainment Law.
6. Any facility for which the prime purpose is the handling of recycled materials.
7. Other Uses which, in the opinion of the Zoning Board of Appeals, are of the same general character as those listed as Permitted Uses or Uses Permitted with a Special Use Permit and which will not be detrimental to the zoning district in which they are located.

E. PROHIBITED USES.

1. Residential uses.
2. Commercial or Agricultural or Farming Operations which in any part involve the slaughtering or processing of animals, fish or poultry, including the parts thereof.
3. Commercial recreation facility.
4. Wholesale bulk fuel storage.
5. Commercial feed Lots.
6. Industries whose principal activity is the storage, production, processing or sale of hazardous or radioactive materials, as defined by the United States Department of Transportation in Title 49 of the United States Code.
7. All Uses of land, Buildings and Structures or industrial processes that may be noxious or injurious by reason of the production or emission of dust, smoke, refuse matter, odor, gas, fumes, noise, vibration or similar substances or conditions that cannot be reasonably mitigated through conditions placed in an approved Site Plan or Special Use Permit.
8. Any Use not specifically listed as a Permitted Use, Use Permitted with a Special Use Permit or Permitted Accessory Use shall be deemed to be a Non-Permitted or Prohibited Use.

F. GENERAL REGULATIONS. In each case where a Building or Use is proposed in this zoning district pursuant to the provisions hereof, the Code Enforcement Officer shall refer the plans, description of proposed Use, and Site Plan to the Planning Board for consideration of such Site Plan pursuant to the provisions contained in Article V, Section 510.

G. SITE REQUIREMENTS.

1. Lot size – to be determined through Site Plan review.
2. Minimum set backs:
 - a. Front* – 150 ft.
 - b. Side – 100 ft. or 200 ft. from the border of any residential district.
 - c. Rear – 100 ft. or 200 ft. from the border of any residential district.

*Properties abutting State Highways shall be required to provide an additional 15 ft. for the front setback.

3. Minimum set backs for an Accessory Structure:

a. Side – 20 ft.

b. Rear – 30 ft.

4. Maximum building height:

a. Principal Building – 45 ft.

b. Accessory Structure – 15 ft.

5. Maximum building coverage*:

a. Principal Building – 50% of the Lot.

* Note: Maximum Lot coverage by improvements per plan (including all Structures and parking areas) shall cover less than 70% of the parcel.

H. OTHER PROVISIONS. No Use in this zoning district shall be located closer than 50 feet from any property line abutting a non-industrial zoning district. This 50 foot Buffer strip shall be perpetually maintained with plant material to provide a visual screen between the Industrial Land Use and the adjoining Non-Industrial Use.

ARTICLE VII. REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS

SECTION 701- GENERAL REGULATIONS.

A. All Uses not explicitly listed as Permitted Uses within the regulations governing a given zoning district classification shall be deemed to be Non-Permitted Uses. This restriction shall apply to each and every zoning district classification within the municipal bounds of the Town.

B. Where two or more adjacent Lots are at the time of the enactment of this Code in the same ownership, they shall for the purposes of this Code be considered a single Lot, except if a subdivision map has been filed with the Livingston County Clerk, in which case the applicable provisions of Town Law Section 265-a exemption of Lots shown on approved subdivision plats shall apply.

C. No Single-Family or Two-Family residential Lot shall contain more than one Principal Building. Accessory Structures and Accessory Uses, including Swimming Pools, cannot

obstruct driveway to highway vision from either the applicants or an adjacent property driveway.

- D. Buildings, Structures and lands lawfully established, located or occupied at the time of the enactment of this Code which are not in conformity with the provisions of this Code may be continued. Changes in such conformities shall be restricted and subject to the provisions of this Code applicable to Non-Conforming Uses.
- E. Accept as provided herein for Non-Conforming Uses, no Building or land shall be used or occupied and no Building or part thereof shall be erected, altered or placed, unless in conformity with the regulations for the zoning district in which it is located until a Building Permit or a Certificate of Occupancy shall have been issued in conformity with the provisions of this Code.
- F. No Lot occupied by a Building or Buildings shall be reduced in size to such an extent as to cause a violation of this Code.
- G. All landscaping required by an approved Site Plan shall be completed within one (1) year from the approval date of such Site Plan.
- H. All applications for any zoning permit, including but not limited to Site Plan approval or issuance of a Special Use Permit must comply with the NYS Uniform Building Maintenance and Fire Prevention Code in effect at the time of such approval. If any Livingston County or New York State Permit or license is required as a result of the proposed Use, a copy must be submitted with the application before a zoning permit or any approval is issued.
- I. All applications must comply with the following regulations, if relevant:
 - 1. Town of Leicester Wind Energy Facilities Law.
 - 2. Town of Leicester Junk/Scrap Yard and Junk Storage Law.
 - 3. Town of Leicester Adult Entertainment Law.
 - 4. Town of Leicester Right to Farm Law.

SECTION 702- LANDSCAPING, SCREENING AND BUFFER REGULATIONS.

- A. INTENT. The following standards are intended to implement the Town of Leicester's long term planning goals by assuring an acceptable degree of Buffering between land uses, particularly between Residential and Non-Residential Uses, including Agricultural and Farming Operations, providing a balance between developed Uses and open space, enhancing the visual and aesthetic appearance of the community and encouraging preservation of existing natural features. Specifically, these regulations are intended to:

1. Provide natural visual screening of parking areas and along property boundaries to protect the existing visual quality of adjacent lands.
2. Reduce surface runoff and minimize soil erosion through the natural filtering capability of landscaped areas.
3. Provide natural Buffers that reduce glare and noise, provide wildlife corridors and protect wildlife habitats, wetlands, stream corridors and other significant environmental features.
4. Moderate the microclimate of parking areas by providing shade, absorbing reflective heat from paved surfaces and creating natural wind breaks.
5. Enhance the overall visual quality of the community by surrounding developed areas with a variety of plant materials that are consistent and compatible with the existing natural vegetation of the area.

B. GENERAL REQUIREMENTS.

1. Development activities requiring Site Plan approval shall submit, as part of such approval, a landscaping plan. These development activities shall include, but not be limited to, major and minor subdivisions, commercial, retail, and Industrial Uses.
2. Existing site vegetation and unique site features, such as stone walls, shall be incorporated into landscaping plans to the maximum extent feasible. Existing healthy trees which are retained shall be credited against the requirements of these regulations in accordance with their size and location.

SECTION 703 - CORNER LOTS.

- A. With corner Lots, the sides facing both Roads shall be considered front yards. Of the other sides, one shall be considered a rear yard and the other a side yard at the Owner's option.

SECTION 704 - EXISTING UNDERSIZED LOTS OF RECORD.

- A. Any residential Lot existing prior to the adoption of this Code and whose area, width and/or depth dimensions are less than the minimum requirements specified herein for the zoning district in which it is located, may be considered as complying with these regulations and no variance therefore shall be required, provided that:
1. Such Lot does not adjoin any other Lot or Lots held by the same Owner, the aggregate area of which Lots is equal to or greater than the minimum Lot area required by the zoning district.
 2. The minimum yard requirements set by this Code are met.

SECTION 705 - SLOPE OF YARDS.

- A. The surface of the front yard at the front wall of any Dwelling shall not be less than one (1) foot above the elevation of the center line of the street or highway measured at the midpoint between the side lines of the Lot.
- B. The surface of any side or rear yard at the foundation wall shall slope away from the Dwelling for a distance of not less than five (5) feet.
- C. Where unnecessary hardship due to topography conditions is proven, the Zoning Board of Appeals may vary front yard slope requirements so that no minus grade is established within fifteen (15) feet of the front Building line or within eight (8) feet of a side or rear wall; and also, on condition that when the level of the first floor of a Dwelling is of lower elevation than the elevation of the center line of a Road or highway, there shall be established a terrace so that the level of the first or principal floor shall be at least one (1) foot above the grade of the front, side and rear yards measured at any point six (6) feet outside of all walls of the Dwelling.

SECTION 706 – FENCES.

- A. The installation, or replacement, of a Fence within the Town of Leicester must meet the following criteria:
 - 1. A Building Permit is required prior to installation of a Fence unless prohibited by New York State Agriculture and Markets Law Article 25-AA §305-a.
 - 2. A request for a permit must be obtained from the Code Enforcement Officer. A request for a permit shall be accompanied by a Site Plan which shall show the height and location of the Fence in relation to all other Structures and Buildings as well as in relation to all Roads, Lot Lines and yards.
 - 3. All Fencing must be installed, or replaced, in conformance with the NYS Uniform Code. Fencing shall be located on an individual's own property and not on adjoining property or directly upon a Lot Line.
 - 4. No Fencing shall be installed, or replaced, which poses a potential hazard to either pedestrians or motorist by restricting vision.
 - 5. Any Fence shall have its most decorative or pleasant side facing the adjacent properties. The Fence posts and other supporting structures of the Fence shall face the interior of the area to be fenced unless such posts or supports are an integral part of the decorative design of the Fence.
 - 6. Height is measured from the finished grade to the highest part of the Fence.

7. Fences six (6) feet or less in height are exempt from set back requirements. Fences taller than six (6) feet are allowed only in Recreational-Commercial (R-C), Industrial Use (I) Districts and for Type 2 Solar Energy Systems located in Agricultural Districts (A) and must be set back from the Lot Line. In no case shall the height of the Fence exceed its setback from an adjacent Lot.
8. Fences incorporating barb wire, electric current or similar materials or devices shall be allowed only when necessary for Agricultural or Public Utility operations and, unless part of an Agricultural or Farming Operation, shall be subject to a minimum ten (10) foot setback.
9. The Planning Board as part of subdivision or Site Plan review, may require a Fence or other screen to shield adjacent residences or other Uses from undesirable views, noise or light.
10. Fences shall be maintained to provide functional, visual and structural integrity.
11. In front yards - Fences or plantings or bushes used in lieu of a man made Fence shall not be located closer than one (1) foot to the edge of the Road Right-Of-Way.

SECTION 707 - KEEPING OF LIVESTOCK.

- A. The keeping, sheltering, harboring or maintaining Livestock, except as part of an Agricultural or Farming Operation, shall be subject to the following standards:
 1. The minimum size Lot for keeping, sheltering, harboring or maintaining Livestock shall be five (5) acres.
 2. A maximum of two (2) Livestock may be kept, sheltered, harbored or maintained per the minimum five (5) acres.
 3. One additional Livestock may be kept, sheltered, harbored or maintained for every additional 2.5 acres over the required minimum five (5) acre parcel size.
 4. Set backs:
 - a. Subject to any limitations imposed by New York State Agriculture and Markets Law Article 25-AA §305-a, no Building in which Livestock is kept shall be located within fifty (50) feet of any Lot Line or within one-hundred fifty (150) feet of any adjoining residence.
 - b. Subject to any limitations imposed by New York State Agriculture and Markets Law Article 25-AA §305-a, there shall be no storage of piling of manure within two-hundred (200) feet of any adjoining residence or within one-hundred (100) feet of any Lot Line. All such manure shall be stored, treated and /or removed in such a manner as not to create any odor or attract any rodents, flies, or other insects.

- c. Subject to any limitations imposed by New York State Agriculture and Markets Law Article 25-AA §305-a, no swine shall be kept within five-hundred (500) feet of any adjoining residence and two-hundred (200) feet of any Lot Line.
 - d. Subject to any limitations imposed by New York State Agriculture and Markets Law Article 25-AA §305-a , any enclosure intended for or occupied by such animals on the premises shall be located the greater of one-hundred fifty (150) feet to the nearest Dwelling Unit on an adjoining Lot or thirty (30) feet from any side or rear Lot Line and not less than seventy-five (75) feet from any Front Lot Line.
5. CERTAIN ANIMALS ARE PROHIBITED. The keeping of any animal which may not be lawfully owned by individuals pursuant to the laws of the State of New York is prohibited in the Town of Leicester.

SECTION 708 – KENNELS.

- A. The Kennel and its operation shall not create nuisance conditions for adjoining properties due to noise or odor.
- B. All animals will be confined to the property and housed in an enclosed Structure in humane conditions (i.e. protected from the weather, clean and sanitary, adequate space, non-porous surfaces, well ventilated, etc.).
- C. Animals are to be kept inside an enclosed Structure between the hours of 8:00 p.m. and 6:00 a.m.
- D. Adequate methods for sanitation and sewage disposable must be used.
- E. Kennels and exterior pens, including dog runs, shall be located at least 200 feet from the nearest Dwelling (other than the owner or user of the property) and at least 100 feet from any Lot Line. Landscaping, screening or Buffering may be required by the Planning Board pursuant to the Site Plan approval process, to minimize the visual and auditory impact to neighboring properties.

SECTION 709 - OUTDOOR LIGHTING.

- A. INTENT. The purpose of this Section is to establish regulations to allow for outdoor illumination levels which are appropriate for the Use, and safety and security, while minimizing the undesirable side effects of excessive illumination such as glare, light trespass, and light pollution. Over time, it is the intent that this Section will allow for reasonably uniform illumination levels in the community.
- B. APPLICABILITY. This Section shall apply to all outdoor lighting fixtures installed during new construction, the expansion and alteration of existing Structures, as well as the replacement of pre-existing lighting fixtures.

C. APPROVALS REQUIRED. For Uses which require Site Plan review, the Planning Board shall require a lighting plan to be submitted showing the location, numbers, type/style, mounting height, and lighting levels produced on the ground (i.e. photometric report). All other Uses shall conform to the general requirements contained herein.

D. GENERAL REQUIREMENTS/STANDARDS.

1. All lights shall be Dark Sky compliant.
2. All outdoor lighting fixtures shall be shielded or otherwise contained on the Lot which it originates from, so as to prevent Light Trespass onto other Lots.
3. Where practicable, lighting installations are encouraged to include timers, sensors, and dimmers to reduce energy consumption and unnecessary lighting.

E. SPECIFIC REQUIREMENTS/STANDARDS.

1. Parking lots. Parking lot lighting shall not exceed levels necessary for safety/security purposes and for locating vehicles at night. The lighting plan shall be designed so that the parking lot is lit from the outside perimeter inward and/or incorporate design features with the intent of eliminating offsite Light Trespass.
2. Canopy and Roof Overhang. Lights installed on Canopies or roof overhangs shall be recessed so that the lens cover is flush with the bottom surface of the Canopy or roof overhang.
3. Outdoor Signs. Lighting fixtures used to illuminate an outdoor Sign shall be shielded or directed in such a way that the light illuminates the Sign only. Internal illumination of a Sign shall be concealed behind opaque, translucent, or other similar types of glass.
4. Bottom-mounted or Up-lighting. To comply with “Dark Sky Compliance” and minimize unnecessary lighting, up-lighting shall be only allowed for flagpoles that display Federal, State, and/or local government flags, provided that the illumination is directed onto the flagpole only.

F. EXEMPTIONS. The following types of outdoor lighting are exempt from this regulation unless otherwise specified:

1. Road lighting installed by the Town of Leicester, Livingston County Highway Department, or the NYS Department of Transportation.
2. Holiday lighting.

3. All temporary emergency lighting needed by police or fire departments or other emergency services.
4. All hazard warning luminaries required by Federal regulatory agencies.
5. Lighting associated with Agricultural or Farming Operations. However Agricultural or Farming Operations within 100 feet of an adjacent Dwelling (not associated with such operation) shall be shielded to prevent Light Trespass onto the adjoining Lot.

G. PROHIBITED LIGHTING.

1. Blinking, flashing, strobe or search lights.
2. Exposed strip lighting used to illuminate Building facades or Signs.
3. Any light that may be confused with or construed as a traffic control device.

SECTION 710 - MANUFACTURED HOMES AND MANUFACTURED HOME PARKS.

- A. INTENT – The purpose of this Section is to provide minimum standards, regulations and requirements for the development or expansion of new or existing Manufactured Home Parks and the siting of Manufactured Homes or Double Wide outside of a Manufactured Home Park. Nothing herein shall be interpreted or construed to suggest that the minimum standards set forth may not be varied by the developer of a new or expanded Manufactured Home Park in any manner that will reduce Lot density, provide additional amenities or exceed the minimum standards in demonstrable fashion satisfactory to the Town of Leicester.
- B. MANUFACTURED HOMES–DOUBLE WIDES - The following shall apply in addition to all other regulations of the Town with respect to Manufactured Homes and Double Wide Homes:
 1. Excepting for Agricultural and Farming Operations or within Manufactured Home parks, no Manufactured Home or Double Wide shall be placed on a private Lot and occupied outside except when such Manufactured Home or Double Wide is situated upon a full frost depth foundation with block skirting.
 2. Any pre-existing Manufactured Home or Double Wide which is so situated as not to conform to the terms of this Section shall not be replaced on its site by any other Manufactured Home or Double Wide unless the same can be replaced in such a way as to otherwise be in compliance with this Code.

C. MANUFACTURED HOME PARKS.

1. General Regulations.

- a. Manufactured Home Parks may be maintained, expanded or created within the Town of Leicester within a Business District (B) or and Agricultural District (A), subject to obtaining a Special Use Permit. The expansion of pre-existing Manufactured Home Parks shall require demonstration that all of the supplemental regulations and requirements of this Section will be met or exceeded.
- b. It is intended that this Section shall apply only to new Manufactured Home Parks containing ten (10) or more Manufactured Homes or pre-existing Manufactured Home Parks that wish to expand in size. This Section is further intended to supplement existing New York State and Federal rules or regulations that govern Manufactured Home Parks and/or Manufactured Homes pertaining to standards pertinent to Manufactured Homes, including but not limited to their construction, placement and fire rating.
- c. New Manufactured Home Parks containing fewer than ten (10) Manufactured Homes upon a single Lot are not permitted in any zoning district within the Town of Leicester.
- d. All Double Wide Manufactured Homes and preexisting Single-Wide replacements installed and occupied pursuant to this Section shall conform to the New York State Uniform Fire Prevention and Building Code.
- e. All Double Wide Manufactured Homes and single-wide Manufactured Home replacements must be with a full frost depth foundation and block skirting prior to the issuance of a Certificate of Occupancy.
- f. New Manufactured Home Parks shall be served by public water and sanitary sewers, or a professionally engineered private wastewater treatment system that complies with all requirements of the Livingston County Health Department.
- g. New Mobile Homes or Single Wide trailers are not permitted on any private lot within any zoning district.

2. Procedure.

- a. The proponent of any prospective Manufactured Home Park expansion or new Manufactured Home Park development must first obtain a Special Use Permit from the Zoning Board of Appeals, which said Special Use Permit will be subject to Site Plan review and approval by the Planning Board. An applicant for a new Manufactured Home Park or an expansion to a pre-existing Manufactured Home Park

shall submit to the Planning Board for its review and approval a professionally prepared (by an engineer or surveyor licensed by the State of New York Department of Education) instrument survey map and Site Plan which shall depict the location of the utilities, amenities, Roads, improvements and Manufactured Home sites or Lots to be situate thereon, along with any other information deemed necessary or desirable by the Code Enforcement Officer or the Planning Board.

- b. Should the requirements of this Section exceed any New York State or Livingston County requirements, it is intended that this Section shall control.

3. Lot Requirements.

- a. The minimum Lot size of a new Manufactured Home Park shall not be less than 50 acres. Expansions of existing Manufactured Home Parks upon contiguous lands shall not result in a total area of less than 20 acres. Any Manufactured Home Park created after the date this Code is adopted must include or comprise a minimum of 10 Manufactured Homes in order to be classified as a Manufactured Home Park. Any extension of a pre-existing Manufactured Home Park shall be governed by this Section.
- b. Any new or expanded Manufactured Home Park shall front upon a primary or collector Road. A minimum required frontage of 400 feet thereon shall be required for any new Manufactured Home Park. The expansion of a pre-existing Manufactured Home Park shall meet the same minimum frontage requirement if said expansion is accomplished throughout the purchase of new land for the expansion from one or more parties controlling adjacent frontage or if the Owner of said Park controls or owns said frontage.
- c. A front setback of at least 300 feet from the center line of the fronting public Road shall be maintained, such that the nearest Structure or Manufactured Home lot of said Park shall not be nearer to the center line of said Road than 300 feet. Within the setback area shall be a landscaped buffer area, which shall contain trees and bushes and plantings of substantial size and number to be determined at the discretion of the Planning Board. If not otherwise prohibited because of drainage or like difficulties, the developer may also make use of swales and earth bulwarks for screening purposes. The buffer area shall be planted in grass or low ground cover and mowed or maintained by the Manufactured Home Park owner at all times to maintain a tidy and presentable appearance.
- d. A setback of at least 75 feet from any adjacent Lot Line shall be maintained.

- e. Any new or expanded Manufactured Home Park shall be located and laid out so that no Manufactured Home shall be closer than 500 feet to any existing single-family or two-family dwelling.
- f. All interior Roads within a Manufactured Home Park shall be improved to the construction standards for minor streets set forth in Article IV of the Subdivision Law of the Town of Leicester.

SECTION 711 - NON-CONFORMING USES, BUILDINGS AND LOTS.

A. INTENT – It is the intent of these regulations to permit Non-Conforming Uses to continue until they are removed or abandoned, but not to encourage their survival.

B. STANDARDS.

1. The lawful Use of a Lot or Buildings existing on the date of adoption of this Code may be continued although such Use or Building does not conform to the regulations specified in this Code. However, the following provisions shall apply to all such Non-Conforming Uses:
 - a. No Non-Conforming Lot shall be further reduced in size.
 - b. No Non-Conforming Building shall be enlarged, extended or increased unless such enlargement would tend to reduce the degree of non-conformity.
 - c. No Non-Conforming Use may be expanded except by a grant of a variance by the Zoning Board of Appeals.
2. Discontinuance. In any zoning district, whenever a Non-Conforming Use of a Lot, premises, Building or Structure, or any part or portion thereof, has been discontinued for a period of one (1) year, such Non-Conforming Use shall not be reestablished, and all future Uses shall be in conformity with the provisions of this Code. Such discontinuance of the active and continuous operation of such Non-Conforming Use, or a part or portion thereof, for such period of one (1) year is hereby construed and considered to be an abandonment of such Non-Conforming Use regardless of any reservation of intent not to abandon the same or of intent to resume active operations. Abandonment may be evidenced by removal or deterioration of Buildings, Structures, machinery, equipment or other evidence that such Non-Conforming Use is no longer taking place.
3. Any Non-Conforming Building damaged by fire or other natural causes to the extent of more than 50% of its assessed value shall be repaired or rebuilt to be in full compliance with this Code and any other relevant regulations, within one (1) year of said destruction.
4. Subject to any limitations imposed by New York State Agriculture and Markets Law Article 25-AA §305-a, Non-Conforming Manufactured Homes may only be replaced

with Manufactured Homes that conform to current regulations for the district in which they are placed.

5. Changes. Once changed to a conforming Use, no Building or Lot shall be permitted to revert to a Non-Conforming Use.
6. Non-Conforming Lots. A residential Lot existing at the time of the passage of this Code which is less than the required area or width or cannot meet the required front, side or rear setbacks for any Residential Use within its zoning district may be used for residential purposes, provided that the setbacks are equal to at least 60% of the required minimum.

SECTION 712 - OFF STREET PARKING AND LOADING REGULATIONS.

- A. INTENT. The purpose of this Section is to prevent or alleviate congestion on public Roads and to promote the public safety and welfare by establishing standards for the provision of off-street parking and loading spaces.
- B. APPLICABILITY. In all zoning districts, every industrial, business, institutional, recreational, residential or other Use shall provide, at the time of any change of Use or when any Building or Structure is erected, enlarged or increased in capacity, off-street parking for motor vehicles in accordance with the requirements of this and other applicable Sections of this Code, especially Site Plan approval.
- C. OFF-STREET PARKING AND LOADING STANDARDS.

The listed parking standards reflect reasonable standards for most Uses in most locations. The Town of Leicester governing board, in adopting these standards, is providing guidance to future developers, tenants and residents of Uses requiring off-street parking and loading. From an environmental and cost perspective, it is always desirable to construct the least number of parking spaces to adequately accommodate a particular Use. The following general requirements apply to all off-street parking.

1. Applicants are encouraged to provide evidence of lessor parking and loading demand, if appropriate.
2. The Planning Board, at its discretion, may require less off-street parking or loading if warranted based on the information presented. In any case where less off-street parking is required, the Planning Board reserves the right to require the set-aside of additional open space sufficient to accommodate the amount of off-street parking which would ordinarily be required, should the need for additional parking be required in the future.
3. The Planning Board also reserves the right to request additional information, such as but not limited to expected number of employees, students, expected attendance or expected deliveries, relevant to judging the adequacy of listed parking and loading standards. Such

information may result in application of off-street parking standards higher than those listed.

4. For Uses not listed, the required number of off-street parking or loading spaces shall be determined by the Planning Board based on similarity to listed Uses and information provided by the applicant.
5. In all cases, provided off-street parking and loading should be sufficient to prevent frequent on-street parking outside designated on-street parking areas by users or employees or the loading and unloading of passengers or materials from the public Right-Of-Way in such a manner that is disruptive to traffic.
6. In addition to the off-street parking required, based on the following standards, one appropriately sized parking space shall be available for each commercial vehicle used in any business conducted on or from the premises.
7. The Planning Board reserves the right to require off-street parking spaces suitable for vehicles with boats or trailers in tow.
8. The parking of one tractor without an attached trailer which is owned by or leased to the occupant of a Dwelling is allowed, subject to the availability of an off-street parking space which meets all the requirements of this Section.

D. REQUIRED PARKING SPACES.

1. Off-street parking spaces shall be provided as follows:
 - a. Residential.
 - Single-Family or Two-Family Dwellings: Two (2) per Dwelling Unit.
 - Multiple-Family Dwellings, Apartments: Two (2) per Dwelling Unit.
 - Hotel, Motel, Bed and Breakfast or Tourist Home: One (1) for each guest accommodation, plus one additional space per two employees.
 - b. Business/Commercial.
 - Professional Office or Home Occupation: Four (4) for each person engaged in the Professional Office or Home Occupation.
 - c. Club or lodge.

- Spaces to meet the combined requirements of the Uses being conducted, such as Restaurant, auditorium, etc.

c. Institutions.

- Nursing home, hospice care home: One (1) per three (3) beds for patients, residents, plus one (1) per each employee and each staff doctor on the largest work shift.
- Medical or dental clinic: Three for each doctor or dentist, one for every two employees on site.
- Places of public assembly: One (1) per three (3) seats.

d. Business amusements.

- Auditorium, arena or theater: One (1) per four (4) seats or eight (8) feet of bench length.
- Bowling alley: Five (5) per lane.

e. Business.

- Retail use, 1,500 square feet Gross Floor Area of less: one (1) per 200 square feet of Gross Floor Area.
- Motor Vehicle Service Station: one (1) for every two (2) gas pumps and three (3) for each service bay.
- Supermarket, Retail Store, grocery store or Gas Station/Convenience Store: One (1) per 75 square feet of Gross Floor Area, but not fewer than three (3).
- Service or repair shop; Retail Store and outlet selling furniture, automobiles or other bulky merchandise, where the operator can show that bulky merchandise occupies the major area of the Building: One (1) per 400 square feet Gross Floor Area, plus one (1) per employee on the largest shift.
- Plant Nurseries: one (1) per 200 square feet of Gross Floor Area of inside sales or display, plus one (1) per employee on the largest shift.
- Office: one (1) per 200 square feet of Gross Floor Area, plus one (1) for each two (2) employees.

- Bank: one (1) per 200 square feet of Gross Floor Area, plus one (1) for each two (2) employees plus five (5) stacking spaces for drive-in teller bay and two (2) exiting stacking spaces, provided that it does not interfere with other required off-street parking.
 - Restaurant: one (1) for every four (4) persons of maximum capacity or one (1) per table, plus one (1) per employee on the largest shift.
 - Fast-food Restaurant: one (1) per 50 square feet of Gross Floor Area, plus one (1) per employee on the largest shift.
 - Bar/Tavern or nightclub: one (1) per 50 square feet of Gross Floor Area, plus one (1) per employee on the largest shift.
 - Mortuary, Funeral Home: at least 30 for two parlors, with 10 additional for each parlor greater than two (2).
 - Shopping centers: Four (4) per 1,000square feet of gross leasable area for centers having a gross leasable area of 25,000 to 400,000 square feet. For centers having a gross leasable area greater than 400,000 square feet, 4.5 per 1,000 square feet of gross leasable area.
 - Industrial:
 - Mini-warehouse; one (1) per 20 storage cubicles.
 - Warehouse: one (1) per 4,000 square feet of Gross Floor Area, plus one (1) per employee on the largest shift.
 - Industrial Uses: one (1) per employee on the largest shift, plus one (1) per company vehicle regularly stored on the premises.
 - Wholesale establishments: one (1) per employee, plus one (1) per 700 square feet of patron serving area.
2. The off-street parking requirements of two or more Uses, Buildings, Structures or Lots may be satisfied by the same parking or loading space, used jointly, provided that the total parking spaces in such group facilities shall not be less than the sum of the requirements for the various Uses computed separately. If the Uses, Buildings, Structures or Lots are

under separate ownership, the right to the joint use of the parking space must be evidenced by the deed, lease, contract or other appropriate written document to establish joint use.

E. DESIGN STANDARDS FOR OFF-STREET PARKING SPACES.

1. The size of a standard perpendicular off-street parking space shall be a minimum of ten (10) feet wide by twenty (20) feet long.
2. The design of all parking areas and/or lots shall be such to demonstrate a safe and efficient means of movement for both motor vehicles and pedestrians.
3. No off-street parking or automobile storage space shall be used or designed in such a manner that will obstruct or interfere with the free Use of any Road, alley, adjoining property loading space, access route, easements or Right-Of-Way.
4. Provision for parking spaces is to be included with the preliminary Site Plan for the construction of Buildings and other Structures. No Building Permit or other zoning permit shall be issued until the required Site Plans are approved by the Building Inspector and/or the Planning Board to show how the off-street parking and loading requirements are to be fulfilled.
5. The off-street parking requirements of two (2) or more Uses, Buildings, Structures or Lots may be satisfied by the same parking or loading space, used jointly, provided that the total parking spaces in such group facilities shall not be less than the sum of the requirements for the various Uses computed separately. If the Uses, Buildings, Structures or Lots are under separate ownership, the right to joint use of the parking space must be evidenced by the deed, lease, contract or other appropriate written document to establish the joint use.
6. Where parking spaces abut sidewalks, landscaped areas, lighting fixtures or Fences, appropriate car stops shall be installed to prevent encroachment on or damage to such features.
7. All required parking areas shall be independent of required emergency access lanes, loading areas and drive-in queuing or stacking lanes.
8. In general, no driveway to an off-street parking area shall be located closer than fifty (50) feet to the intersection of any two (2) Roads or within twenty (20) feet of any side Lot Line, provided that sufficient distance will always remain for all required radii for said driveway. The distance from the driveway to the intersection shall be measured by extending the curb line of the intersecting street until it intersects the curb line, extending if necessary, of the driveway in question.
9. Driveways shall be designed to provide for the safe and efficient movement of traffic between the Road and the site, to eliminate the potential for stacking of vehicles along the public Right-Of-Way and to minimize interference with pedestrians and vehicles using the site and the public Right-Of-Way.

10. Necessary passageways, driveways and loading areas (except where provided in connection with Single-Family Dwellings) shall be surfaced with a dustless, durable, all-weather pavement, clearly marked for car spaces, and shall be adequately drained, all subject to the approval of the Code Enforcement Officer.
11. All parking areas and appurtenant passageways and driveways serving commercial Uses shall be illuminated adequately during the hours between sunset and sunrise when the Use is in operation. All lighting must be Dark Sky Compliant. Adequate shielding shall be provided by commercial users to protect adjacent residential zones from the glare of such illumination and from that of vehicle headlights.
12. Off-street parking areas located in commercial zones and which provide parking for twenty (20) or more vehicles shall be provided with trees.
13. Fire lanes shall be established and maintained in the parking area at the front, side and rear of all Buildings and Structures on the Lot and properly painted and marked as such. Vehicular parking and standing is prohibited in a fire lane, except that a commercial enterprise may use the fire lane adjacent to it as a pickup station for its customer's use, provided that such activity does not cause a traffic hazard and the Building Inspector or Fire Marshal grants approval for such use of fire lanes.
14. Traffic lanes for the control and regulation of automobile, truck, bicycle or other vehicle and pedestrian flow in the parking area shall be established and maintained and properly delineated through the use of pavement markings, Signs or median strips.
15. Parking lines for parking spaces shall be established and maintained in the parking area and shall be properly painted and marked as such.
16. Parking spaces in the parking area shall be set aside and designated for handicapped persons and ramp facilities provided where required. Each handicapped parking space shall have a minimum accessible space created by an area 13 feet in width and 20 feet in length in a ninety-degree parking configuration.
17. All parking and loading areas shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties or walkways. All water drainage systems used in connection with the premises must be kept clean and in proper working order.
18. The Owner and/or lessee of the property used for parking and/or loading shall maintain such area in good condition without holes and free from dust, trash and other debris.
19. All parking areas shall be provided with additional peripheral areas adequate for snow storage.

F. DESIGN STANDARDS FOR LOADING SPACES.

1. Required loading spaces shall be twelve (12) feet by thirty-five (35) feet, with a fourteen (14) foot height clearance. If tractor-trailer deliveries are expected, at least one loading space twelve (12) feet by fifty-five (55) feet shall be provided.
2. All required loading areas shall be independent of required emergency access lanes, parking areas and drive-in queuing lanes.
3. Adequate off-street loading space(s) shall be provided for any commercial, institutional or industrial Use which involves the receipt or distribution of goods.

SECTION 713 - PUBLIC UTILITIES.

- A. Public Utilities may be allowed within all zoning districts by issuance of a Special Use Permit.
 1. The Zoning Board of Appeals shall determine the following prior to approving a Special Use Permit:
 - a. The purposed installation in a specific location is necessary and convenient for the efficiency of the essential service or the satisfactory and convenient provision of service to the area in which the particular Use is located.
 - b. The design of any Building in connection with such facility shall conform to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property rights in the zoning district in which it is to be located.
 - c. Adequate landscaping will be provided to create a visual and sound Buffer between such facilities and adjacent property. A Buffer strip of ten feet (10) in width shall be provided around the perimeter of the Lot.
 - d. All new and replacement electric distribution, telephone, cable TV and other lines shall be placed underground where practical. All new replacement service connections from distribution lines to consumers shall be placed underground where practical. All new and replacement points of necessary access, or transformers, shall be placed in secure structures at ground level where practical.
 - e. All major electrical transformed facilities or substations, if above ground, shall be secured by an outer and inner Fence, each ten (10) from each other at any point: also no transformer or associated switches shall be closer than one hundred (100) feet from any Lot Line.

SECTION 714 – SOLAR ENERGY SYSTEMS.

- A. AUTHORITY AND LEGISLATIVE INTENT.

1. The Town Board of the Town of Leicester recognizes that solar energy is a clean, readily available and renewable energy source. However, it is necessary to properly site and regulate Solar Energy Systems within the boundaries of the Town of Leicester to protect residential uses, Prime Farmland (as hereafter defined) and farm operations, business areas and other land uses, to preserve the overall beauty, nature and character of the Town of Leicester, to promote the effective and efficient use of solar energy resources, and to protect the health, safety and general welfare of the citizens of the Town of Leicester.
2. In addition, the Town Board believes it to be necessary to regulate and govern the proper and timely removal of Solar Energy Systems upon such systems becoming non-functional or when they are no longer being utilized.

B. DEFINITIONS. The following definitions shall apply to this Section:

APPLICANT - The person or entity submitting an application and seeking an approval under this Section; the owner of a Solar Energy System or a proposed Solar Energy System project; the operator of Solar Energy System or a proposed Solar Energy System project; any person acting on behalf of an Applicant, Solar Energy System or proposed Solar Energy System. Whenever the term “applicant” or “owner” or “operator” are used in this Section, said term shall include any person acting as an applicant, owner or operator.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM - A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

BUILDING_MOUNTED SOLAR ENERGY SYSTEM - Any Solar Energy System that is affixed to the side(s) or rear of a Building or other structure either directly or by means of support structures or other mounting devices, but not including those mounted to the roof or top surface of a Building.

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.

GROUND-MOUNTED SOLAR ENERGY SYSTEM - Any Solar Energy System that is affixed to the ground either directly or by support structures or other mounting devices where such structure and mounting exists solely to support the Solar Energy System.

PRIME FARMLAND - Land, designated as “Prime Farmland” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database 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 uses.

It has the soil quality, growing season, and moisture supply needed to produce economically sustained high yields of crops when treated and managed according to acceptable farming methods, including water management. In general, Prime Farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime Farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.

A map showing Prime Farmland within the Town of Leicester is available at the Town Clerk's office and is made a part of these regulations as "Exhibit 1," which is styled "Town of Leicester – Prime Farmland Soils Showing an Area of Environmental Importance."

ROOF-MOUNTED SOLAR ENERGY SYSTEM - A Solar Energy System mounted on the roof of any legally permitted Building or structure and wholly contained within the limits of the roof surface.

SOLAR PANEL - A photovoltaic device capable of collecting and converting solar energy into electrical energy.

SOLAR ENERGY EQUIPMENT - Electrical energy devices, material, hardware, inverters, or other electrical equipment and conduit that are used with Solar Panels to produce and distribute electricity.

SOLAR ENERGY SYSTEM - An electrical energy generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

TYPE 1 SOLAR ENERGY SYSTEM – A Ground-Mounted Solar Energy System intended to produce energy for onsite consumption or credit for onsite consumption for a Building, single-family Dwelling, Multiple Dwelling, business or farm. Said system shall be considered an Accessory Use (as defined in Article 2.), designed and intended to generate electricity solely for use on the premises, potentially for multiple tenants, through a distribution system that is not available to the public.

TYPE 2 SOLAR ENERGY SYSTEM – A Ground-Mounted Solar Energy System intended to produce energy for offsite sale to and consumption by one or more customers.

C. ZONING DISTRICTS WHERE ALLOWED. Subject to the provisions of this Section, Solar Energy Systems shall be allowed as follows:

1. Building Integrated Solar Energy Systems are allowed in all zoning districts upon issuance of a building permit based on special application materials supplied by the Town Building and Code Department.
2. Building-Mounted Solar Energy Systems are allowed in all zoning districts upon issuance of a building permit based on special application materials supplied by the Town Building and Code Department.

3. Roof-Mounted Solar Energy Systems are permitted in all zoning districts, subject to the following:
 - a. The placement, construction and major modification of Roof-Mounted Solar Energy Systems shall only be permitted upon issuance of building permit based on specific application materials as may be supplied by the Town Building and Code Department.
 - b. Height. Roof-Mounted Solar Energy Systems shall not exceed the maximum height restrictions within the zoning district in which they are located.
 - c. Design standards. Roof-Mounted Solar Energy System installations shall comply with the following design standards:
 - (i) Solar Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.
 - (ii) No part of a Roof-Mounted Solar Energy System shall extend above, beyond, or below the edge of the roof it is mounted to. Additionally, the Code Enforcement Officer may require, at his/ her sole discretion, a minimum three (3) foot wide center walkway for safe access purposes.
 - (iii) If feasible, Solar Energy Equipment shall be installed inside walls and attic spaces to reduce their visual impact.
 - (iv) If feasible, Solar Panels affixed to a flat roof shall be placed below the line of sight from a public right of way.
 - d. Roof-Mounted Solar Energy Systems shall be exempt from Site Plan review under the local zoning code or other land use regulations, excepting the requirement to obtain a building permit as required in paragraph C. 3. above
4. Type 1 Solar Energy Systems are allowed as Accessory Uses and/or structures in all zoning districts.
 - a. The placement, construction and major modification of Type 1 Solar Energy Systems shall only be permitted upon issuance of building permit based on specific application materials as may be supplied by the Town Building and Code Department.
 - b. Height. Type 1 Solar Energy Systems shall not exceed fifteen (15) feet at the highest point when oriented at maximum tilt.
 - c. Setbacks. Type 1 Solar Energy Systems setbacks shall be twice the standard setbacks for Buildings within the zoning district it is located, but in no event shall any such setback be less than twenty (20) feet.
 - d. Coverage. Type 1 Solar Energy Systems ground coverage shall not exceed the allowable total surface or area coverage for accessory Buildings or structures within

the zoning district in which it is located and in no event shall the combination of all accessory Buildings and structures located on the premises exceed 20% coverage of the entire area of such parcel. For purposes of this provision, coverage shall be calculated based upon the total surface area of the Solar Panels at minimum tilt.

- e. All Type 1 Solar Energy Systems located in Residential Districts (R) shall be installed in the side or rear yard.
 - f. All applications for Type 1 Solar Energy Systems for businesses or farms, to the extent permitted by law, shall be subject to Site Plan review as may be provided for elsewhere in the Zoning Ordinance or as may be established by further action of the Town. Applications for Type 1 Solar Energy Systems for use on residential parcels may be subject to Site Plan review at the sole discretion of the Code Enforcement Officer.
 - g. Pursuant to 6 NYCRR 617.5, Type I Solar Energy Systems to be used on residential parcels shall be deemed to be Type II Actions for purposes of review under the New York State Environmental Quality Review Act (16 NYCRR 617). All other Type 1 Solar Energy Systems shall be deemed to be Unlisted Actions pursuant to the New York State Environmental Quality Review Act.
5. Type 2 Solar Energy Systems are permitted only in Agricultural Districts (A) and are subject to the requirements set forth in this Section, including Site Plan review as may be provided for elsewhere in the Zoning Ordinance or as may be established by further action of the Town, and are allowed only after the issuance of a Special Use Permit pursuant to these provisions. Applications for the installation of a Type 2 Solar Energy System shall be reviewed by the Zoning Enforcement Officer and referred, with comments, to the Town of Leicester Planning Board (for Site Plan) and the Town of Leicester Board of Appeals (for Special Use Permit) for their review and action, which can include approval, approval on conditions, or denial.
- a. Area where Type 2 Solar Energy Systems are not permissible. Notwithstanding the above, Type 2 Solar Energy Systems shall not be a permitted use within that portion of the Agricultural District (A) that is from the east side of the Genesee Valley Greenway to the Town boundary that runs along and south of the Genesee River as such area has been determined to be an area of environmental importance and of a unique character to the community due to its proximity to the Genesee River and being a part of the Genesee Valley. Said area is shown on “Exhibit 1,” which is styled “Town of Leicester – Prime Farmland Soils Showing an Area of Environmental Importance.”
 - b. Special Use Permit Application Requirements. For a Special Use Permit application, the Applicant shall submit the Site Plan application provided to the Planning Board, any information required by the Code Enforcement Officer and the following documents and information:

- (i) If the property of the proposed project is to be leased, proof of legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements.
- (ii) Plans and drawings for the Type 2 Solar Energy System signed by a Professional Engineer showing the proposed layout of the Solar Energy System along with providing a description of all components, existing vegetation, any proposed clearing and grading of the lot(s) involved, any anticipated or possible storm water or erosion disturbances, and utility lines (both above and below ground) on the site and adjacent to the site.
- (iii) Submitted plans and drawings shall show all property lot lines and the location and dimensions of all existing Buildings or structures and uses on any parcel within 500 feet of the outer perimeter of the Solar Energy System.
- (iv) Equipment specification sheets shall be provided for all Solar Panels, significant components, mounting systems, and inverters that are to be installed.
- (v) A Property Operation and Maintenance Plan which describes all ongoing or periodic maintenance of the Solar Energy System and property upkeep, such as mowing and trimming.
- (vi) Clearing, grading, storm water and erosion control plan. Applicant shall submit an engineered Storm Water and Erosion Control Plan to the Town of Leicester Engineer for its review and approval which shall demonstrate that post development runoff, storm drainage and erosion will not be negatively impacted by placement of the Type 2 Solar Energy System on the site.
- (vii) Any such additional information as may be required by the Town's professional engineer or consultant, Town of Leicester Planning Board, Town of Leicester Board of Appeals, Town Attorney or Code Enforcement Officer.
- (viii) At its sole discretion, the Town of Leicester Planning Board and/or the Town of Leicester Zoning Board of Appeals may refer an application for a Type 2 Solar Energy System to one or more private consultants for review to assist such Board in properly fulfilling its duties. Such consultants may include a professional engineer, attorney, planning consultant or other specialist. All expenses incurred by the Town (through either Board) for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time during the application process, either Board may require that Applicant furnish a deposit in an amount that it deems initially sufficient to be used for reimbursement of such expenses. Any such deposit shall be held in a non-interest bearing account and shall be used to reimburse the Town for expenses that have been incurred as a result of such consultants. Should such deposit be depleted prior

to final approval, either Board may require that additional monies be deposited with the Town before further review of the application will continue. A reviewing Board may suspend indefinitely the review of any application as a result of the failure of Applicant to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants. Any such suspension shall supersede any Town of New York State law, rule or regulation relating to the timing of issuance of decisions for such applications.

- (ix) Decommissioning Plan. To ensure the proper removal of Type 2 Solar Energy Systems after such improvements are no longer reasonably operable or have been abandoned, a Decommissioning Plan shall be submitted as part of the application. The Decommissioning Plan must specify that after the Type 2 Solar Energy System is no longer operational or has been abandoned, it shall be removed by the Applicant or any subsequent owner of the improvements and/or the subsequent owner of the property upon which the improvements are placed. The Decommissioning Plan shall run to the benefit of the Town of Leicester and be executed by the Applicant as well as the owners of the real property upon which the Solar Energy System is to be located and such signatures shall be notarized in a format that allows the plan to be recorded at the Office of the Livingston County Clerk. Such plan shall, prior to commencement of construction, be recorded at the office of the Livingston County Clerk as irrevocable deed restrictions indexed against the property upon which the Solar Energy System is to be constructed. The intent of the above provisions is so that all future owners of such properties will be obligated to comply with the Decommissioning Plan requirements if the Applicant or then owner of the Solar Energy System fails to do so.

The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution and a cost estimate detailing the projected cost of executing the Decommissioning Plan, which is to be prepared by a Professional Engineer or reputable contractor. Cost estimations shall take into account inflation and shall be based on the operating life expectancy of the system.

- A. Prior to obtaining a building permit and as a condition to any Special Use Permit being issued, the Applicant must provide an irrevocable financial security bond (or other form of surety acceptable to the Town of Leicester at its discretion) for the removal of the Type 2 Solar Energy System, with the Town of Leicester as the designated assignee/beneficiary, in an amount approved by the Planning Board which is equal to 110% of the estimated removal cost. The bond or surety shall provide for an annual increase in the amount of the surety to compensate for the cost of inflation or any other anticipated increase in costs of removal. Each year after a Type 2 Solar Energy System has been constructed, and no later than ten (10) days prior to the anniversary date of the issuance of the building permit for such system, the then owner/permit holder for the system shall provide the Town of Leicester with written proof that the

required financial security bond (or other form of surety) is still operable and valid and that such surety has been properly increased to account for inflation or any other anticipated increase in costs of removal as provided for above.

- (x) If a Type 2 Solar Energy System is proposed to be developed on land that is or could be in agricultural production, Applicant shall demonstrate how the proposed development complies with the then current guidelines as may be established by the New York State Department of Agriculture and Markets relating to Agricultural Mitigation for Solar Energy Projects.

c. Special Use Permit and Site Plan Approval Standards.

- (i) Height. Type 2 Solar Energy Systems shall have a maximum height of no more than fifteen (15) feet.
- (ii) Setbacks. Type 2 Solar Energy Systems shall be sited to create a front setback of no less than 200 feet from public roadways and setbacks of 100 feet from all side and rear property lines. In addition, no Type 2 Solar Energy System shall be located closer than 300 feet from any residential structure located on another parcel.
- (iii) Lot/Parcel Size. Type 2 Solar Energy Systems shall be located on parcels with a minimum lot size of 25 acres.
- (iv) Lot/Parcel Coverage. Type 2 Solar Energy Systems are permitted to cover up to 80% of any lot or parcel that does not contain Prime Farmland. If a Type 2 Solar Energy System is to be constructed on a parcel or parcels that contain Prime Farmland, in no instance shall more than 10% of the Prime Farmland on any given lot be permitted to be used, developed or covered for purposes of Type 2 Solar Energy Systems. It is the intent of this restriction to protect the valuable resource and benefits of Prime Farmland and it is the express intention of the Town of Leicester that no variance or hardship request be granted to permit increased coverage by Type 2 Solar Energy Systems on Prime Farmland by any board or commission or other agency having legal authority to consider and grant such a variance or hardship request. The coverage area shall be determined by the area covered by the perimeter of the Solar Energy System at minimum tilt.
- (v) Fencing and Screening. All Type 2 Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed and maintained on the entrance and perimeter of the fencing. The fencing and the system may be required to be further screened by landscaping to avoid adverse aesthetic impacts. The Planning Board shall provide for enhanced screening and buffering for Type 2 Solar Energy Systems that are placed adjacent to residentially zoned areas or abut a public road.
- (vi) Number of Type 2 Solar Energy Systems allowed per lot. Only one Type 2 Solar Energy System shall be allowed per lot or parcel, regardless of lot size.

- (vii) Recent Subdivision of Lot/Parcel. In order to prevent circumvention of the size and coverage restrictions set forth above, when considering such restrictions, the Zoning Board of Appeals shall consider the lot or parcel to be the smallest configuration of the physical area where the Type 2 Solar Energy System is being proposed that has existed as a separate lot or parcel (with its own Tax Identifier Map Parcel Number) in the official tax records of the Town of Leicester within the five (5) years immediately preceding the application seeking approval for such Type 2 Solar Energy System. This provision is specifically intended to prevent any owner of land from combining multiple parcels of land in order to permit siting of a larger Type 2 Solar Energy Systems than would have been otherwise allowable pursuant to these regulations.
- (viii) Vegetation and Habitat. Type 2 Solar Energy System owners/developers shall develop, implement and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, owners/developers shall use native plant species and seed mixes.
- (ix) Any Type 2 Solar Energy System shall be accessible for all emergency service vehicles and personnel.
- (x) After completion of a Type 2 Solar Energy System, the Applicant shall provide a post- construction certificate from a Professional Engineer registered in New York State that the project complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans.
- (xi) Compliance with regulatory agencies. The Applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county and local agencies having jurisdiction and approval powers related to the completion of a Type 2 Solar Energy System.
- (xii) Any application under this Section shall meet any substantive Site Plan requirements as may be provided for elsewhere in the Zoning Ordinance or as may be established by further action of the Town, or that in the judgment of the Leicester Town Planning Board, are applicable to the system being proposed.
- (xiii) The Planning Board shall be required to hold a public hearing relating to Site Plan for any Type 2 Solar Energy System.
- (xiv) Prior to determination or issuance of any permit, all Type 2 Solar Energy System applications shall be subject to review pursuant to the New York State Environmental Quality Review Act (6 NYCRR 617). All applications (Site Plan and Special Use Permit) for approval of a Type 2 Solar Energy System shall be deemed to be a Type I Actions for purposes of compliance with the New York State Environmental Quality Review Act (6 NYCRR 617.4 (a) (1) and (2) specifically allow the Town to classify such actions in addition to the list established by such

statute) with The Leicester Planning Board and the Leicester Zoning Board of Appeals conducting a coordinated review.

- (xv) The development and operation of a Type 2 Solar Energy System shall not have a significant adverse impact on fish, wildlife or plant species or their critical habitats, or other significant habitats identified by the Town of Leicester or other federal or state regulatory agencies. The Leicester Town Planning Board and the Leicester Zoning Board of Appeals may impose conditions on its approval of any Site Plan or Special Use Permit under this Section to enforce the standards referred to in this Section or to discharge its obligations under the State Environmental Quality Review Act.
- (xvi) Time limit on completion. After receiving Site Plan approval and Special Use Permit approval of a Type 2 Solar Energy System, an Applicant shall obtain a Building Permit within twelve (12) months of such approvals or the approvals shall automatically terminate and be deemed null and void. Additionally, the Applicant shall complete construction of an approved (Site Plan and Special Use Permit) Type 2 Solar Energy System within twelve (12) months of obtaining a Building Permit as provided for above, or the approvals shall automatically terminate and be deemed null and void and be of no force an effect at law.
- (xvii) General complaint process. During construction, the Code Enforcement Officer can issue a stop work order at any time for any violations of a Special Use Permit approval or condition, Site Plan approval or condition or Building Permit. After construction is complete, the permit holder of a Type 2 Solar Energy System shall establish a contact person, including name and telephone number for receipt of any complaint concerning any permit, approval, maintenance, or operational requirements.
- (xviii) Inspections. Upon reasonable notice, the Town of Leicester Code Enforcement Officer, or his or her designee, may enter a lot or parcel upon which a Solar Energy System has been approved for the purpose of determining compliance with any requirements or conditions of this Section or any approval given or permit issued pursuant to this Section. Twenty-four (24) hours' notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. Furthermore, a Type 2 Solar Energy System shall be inspected by a New York State licensed Professional Engineer that has been approved by the Town of Leicester at any time upon a determination by the Town's Code Enforcement Officer that damage to such system may have occurred, and a copy of the written inspection report shall be submitted to the Code Enforcement Officer. Any fee or expense associated with this inspection shall be borne entirely by the permit holder, owner or operator and shall be reimbursed to the Town of Leicester within thirty 30 days after delivery to the permit holder of an invoice substantiating such charges. Any failure to pay such reimbursable charges may result in revocation of any Special Use Permit granted. The Town of Leicester reserves the right to levy all such unreimbursed expenses onto the real property tax bill associated with the real property upon which the Solar Energy System is located.

- D. General regulations. The placement, construction and major modification of all Solar Energy Systems within the boundaries of the Town of Leicester shall be permitted only as follows:
1. Any inconsistent provisions of the Code of the Town of Leicester which purport to or may be interpreted to allow Solar Energy Systems in other districts are hereby superseded.
 2. All Solar Energy Systems existing on the effective date of this Section shall be “grandfathered” and allowed to continue as they presently exist. Routine maintenance (including replacement with a new system of like construction and size) shall be permitted on such existing systems. New construction other than routine maintenance on pre-existing systems shall comply with the requirements of this Section.
 3. No Solar Energy System shall hereafter be used, erected, moved, reconstructed, changed or altered except in conformity with these regulations.
 4. Any applications (including variance applications) pending for Solar Energy Systems on the effective date of this Section shall be subject to the provisions of this Section.
 5. This Section shall take precedence over any inconsistent provisions of the Zoning regulations contained within the Zoning Ordinance of the Town of Leicester.
 6. For all Solar Energy Systems, no signage or graphic content may be displayed on the Solar Energy Equipment except the manufacturer’s badge, safety information and equipment specification information.
 7. For Type 2 Solar Energy Systems, a sign not to exceed nine square feet shall be displayed on or near the main access point and shall list the facility name, owner and phone number, disconnect and other emergency shutoff information, 24-hour emergency contact information, and it will be clearly displayed on a light reflective surface.
 8. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
 9. Payment in Lieu of Tax Agreement. The owners or developers and landowners of the property upon which a Type 2 Solar Energy Systems is to be developed shall be required to enter into a contract with the Town for payments in lieu of taxes pursuant to Real Property Tax Law §487 9.(a). Upon the owner or developer providing written notification to the Town of its intent to construct a Type 2 Solar Energy System, the Town Assessor or the Town Attorney on behalf of the taxing jurisdiction shall notify such owner or developer in writing within sixty (60) days of its intent to require a contract for payments in lieu of taxes.
 - a. In no event shall such payment in lieu of tax agreement operate for a period of more than fifteen (15) years, commencing in each instance from the date on which the benefits of such exemption first become available and effective under Real Property Tax Law §487.

- b. In no event shall such payment in lieu of tax agreement require annual payments in an amount that would exceed the amount that would otherwise be payable but for the exemption under Real Property Tax Law §487.
 - c. The payment in lieu of tax agreement shall run to the benefit of the Town of Leicester and be executed by the Applicant/developer as well as the owners of the real property upon which the Solar Energy System is to be located and such signatures shall be notarized in a format that allows the payment in lieu of tax agreement to be recorded at the Office of the Livingston County Clerk. Such payment in lieu of tax agreement shall, prior to commencement of construction, be recorded at the office of the Livingston County Clerk as a lien on the property upon which and indexed against the property upon which the Solar Energy System is to be constructed. The intent of the above provisions is so that should the Applicant/developer or owner of the Solar Energy System default with regard to such payment in lieu of tax agreement, that such obligation will become the responsibility of the then owner of the property upon which the Solar Energy System is sited and that failure to satisfy the terms of such agreement will permit the Town of Leicester to enforce such agreement as against the owner of the real property and the real property.
 - d. At its sole discretion, the Leicester Town Board may refer an application for a Type 2 Solar Energy System to one or more private consultants to assist such Board in negotiating, drafting and/or reviewing the required payment in lieu of tax agreement. Such consultants may include a professional engineer, attorney, planning consultant or other specialist. All expenses incurred by the Town for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time during the application process, the Town Board may require that Applicant furnish a deposit in an amount that it deems initially sufficient to be used for reimbursement of such expenses. Any such deposit shall be held in a non-interest bearing account and shall be used to reimburse the Town for expenses that have been incurred as a result of such consultants. Should such deposit be depleted prior to final approval of the required payment in lieu of tax agreement, the Town Board may require that additional monies be deposited with the Town before further processing of the payment in lieu of tax agreement will continue. The Town Board may suspend indefinitely the negotiation and drafting and review of the payment in lieu of tax agreement as a result of the failure of Applicant to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants. Any such suspension shall supersede any Town of New York State law, rule or regulation relating to the timing of issuance of approvals for such payment in lieu of tax agreements.
 - e. No building permit may be issued for any approved Type 2 Solar Energy System until such time as a payment in lieu of tax agreement has been executed by all parties.
10. Community Benefit Agreement. The owners or developers and landowners of the property upon which a Type 2 Solar Energy Systems is to be developed shall be required to enter into a community benefit agreement with the Town for payment by the owners,

developers or landowners to the Town of an agreed upon monetary amount or provision of a specified public improvement or improvements that shall act to offset the potential negative impacts that may be associated with a Type 2 Solar Energy System.

- a. At its sole discretion, the Leicester Town Board may refer an application for a Type 2 Solar Energy System to one or more private consultants to assist such Board in negotiating, drafting and/or reviewing the required community benefit agreement. Such consultants may include a professional engineer, attorney, planning consultant or other specialist. All expenses incurred by the Town for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time during the application process, the Town Board may require that Applicant furnish a deposit in an amount that it deems initially sufficient to be used for reimbursement of such expenses. Any such deposit shall be held in a non-interest bearing account and shall be used to reimburse the Town for expenses that have been incurred as a result of such consultants. Should such deposit be depleted prior to final approval of the required community benefit agreement, the Town Board may require that additional monies be deposited with the Town before further processing of the community benefit agreement will continue. The Town Board may suspend indefinitely the negotiation and drafting and review of the community benefit agreement as a result of the failure of Applicant to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants.
 - b. No building permit may be issued for any approved Type 2 Solar Energy System until such time as a community benefit agreement has been executed by all parties.
11. Road Use Agreement. Prior to issuance of any building permit for a Type 2 Solar Energy System and as a condition to any Special Use Permit being issued, the Applicant and its general contractor shall enter into a written Road Use Agreement benefitting the Town and in a format acceptable to the Town at its sole discretion. Such Road Use Agreement will require Applicant and its General Contractor to indemnify and hold the Town harmless from any and all damage to the roadways within the Town that may result from the development of Applicant's Type 2 Solar Energy System. As a part of such Road Use Agreement, Applicant shall provide an irrevocable financial security bond (or other form of surety acceptable to the Town of Leicester at its sole discretion), benefitting the Town, that shall ensure the indemnification and hold harmless provisions stated above.
- a. In the event that any damage is done to any Town road as a result of the development of an Applicant's Type 2 Solar Energy System, said Applicant and/or its General Contractor shall be responsible to perform repairs to such road that are acceptable to the Town Highway Superintendent in his/her reasonable discretion.

- b. Such repairs shall be completed within sixty (60) days of when written notice of a demand to repair was personally served or sent via certified mail to Applicant or its General Contractor. Should Applicant or its General Contractor fail to effectuate such repairs within sixty (60) days, or within a different timeline at the discretion of the Highway Superintendent, the Town shall be permitted to execute on the irrevocable financial security bond (or other form of surety) with written notice to Applicant or its General Contractor.
- c. The provisions of the Road Use Agreement required hereby and the requisite financial security bond (or other form of surety) shall remain in full force and effect for no less than one year after all construction has been completed and the project has been certified as complete by a professional engineer.
- d. No building permit may be issued for any approved Type 2 Solar Energy System until such time as a Road Use Agreement has been executed by all parties.

E. Abandonment and Decommissioning.

1. If the use of an approved Solar Energy System is discontinued, the permit holder, owner or operator shall provide written notice to the Code Enforcement Officer within thirty (30) days of such discontinuance. In any case, Solar Energy Systems are considered inoperative and abandoned after 90 days without electrical energy generation which is consumed onsite (or credit for onsite consumption is received) for Type 1 Solar Energy Systems or without production of energy and offsite sale to and consumption by one or more customers for Type 2 Solar Energy Systems.
2. Determination of Abandonment or Inoperability. A determination of the abandonment or inoperability of a Solar Energy System shall be made by the Town Code Enforcement Officer, who shall provide the permit holder, owner or operator and owner of the real property upon which the Solar Energy System is located with written notice by personal service or certified mail, return receipt requested. Any appeal by the permit holder, owner or operator of the Code Enforcement Officer's determination of abandonment or inoperability shall be filed with the Town of Leicester Zoning Board of Appeals within thirty (30) days of the Code Enforcement Officer causing personal service or mailing certified mail his written determination upon the permit holder, owner or operator and the Board shall hold a hearing on same. The filing of an appeal does not stay the following time frame unless the Zoning Board of Appeals or a court of competent jurisdiction grants a stay or reverses said determination. At the earlier of 91 days from the date of determination of abandonment or inoperability without reactivation or upon completion of dismantling and removal, any approvals and/or permits granted or issued for the Solar Energy System shall automatically expire.
3. Removal. All Solar Energy Systems (and related infrastructure) shall be dismantled and removed immediately from a Lot where the Special Use Permit or Site Plan approval has been revoked by the Town of Leicester Zoning Board of Appeals or the Town Planning

Board respectively, or if the Solar Energy System has been deemed by the Code Enforcement Officer to be inoperative or abandoned for a period of more than 90 days and the Lot shall be restored to its pre-development condition. The responsibility to dismantle and remove and all such costs of removal shall be the responsibility of the permit holder, system owner of the Solar Energy System and/or the owner of the property on which such Solar Energy System is located. If the permit holder, system owner or owner of the property does not dismantle and remove said Solar Energy System as required, the Town Board may, after a hearing at which the permit holder or system owner and property owner shall be given an opportunity to be heard and present evidence, dismantle and remove said facility and levy all related expenses associated with the removal onto the real property tax bill associated with the property upon which the Solar Energy System was located, regardless of who the permit holder is/was.

- a. Removal of all Type 2 Solar Energy Systems shall be in accordance with the Decommissioning Plan required by section C. 5. (b) (ix) above. In the event that permit holder, the then owner of the Type 2 Solar Energy System, or the property owner fails to remove all equipment, infrastructure or appurtenances thereto, the Town shall be permitted at its sole discretion to utilize the financial security bond (or other form of surety) provided for in the Decommissioning Plan or to exercise its right after notice as provided for above, to dismantle and remove said facility and levy all related expenses associated with the removal onto the real property tax bill associated with the property upon which the Solar Energy System was located, regardless of who the permit holder is/was.

F. Revocation.

If the Applicant violates any of the conditions of its Special Use Permit, Site Plan approval or violates any other local, state or federal laws, rules or regulations, such violation shall be grounds for revocation of the Special Use Permit or Site Plan Approval. Revocation may occur after the applicant is notified in writing of the violations and the Town of Leicester Zoning Board of Appeals holds a hearing on same as provided for herein.

G. Interpretation; conflict with other law.

In its interpretation and application, the provisions of this Section shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. This Section is not intended to interfere with, abrogate or annul other rules, regulations or laws, provided that whenever the requirements of this Section are at a variance with the requirements of any other lawfully adopted regulations, rules or laws, the most restrictive, or those which impose the highest standards shall govern.

SECTION 715 - SIGN REGULATIONS.

- A. INTENT - The intent of these provisions is to promote and protect the public health, safety and welfare by regulating size, height, quantity, location, spacing, shape, scale, proportion,

lighting, motion, design and appearance of signage within the Town of Leicester. More specifically, the provisions of this Section are intended to accomplish the following:

1. Protect and enhance the physical appearance of the community, preserve the scenic and natural beauty and provide a more enjoyable and pleasing community.
2. Encourage commercial Signs and graphics to be designed so as to be functional and compatible with the aesthetic appearance of the Building on which they are located on and the surrounding neighborhoods.
3. Reduce the frequency and magnitude of hazards to motorists and pedestrians caused by Sign obstructions and distractions.
4. Preserve and create more attractive business and residential environments.
5. Conserve the value of Buildings and properties and preserve existing neighborhood character.

B. DEFINITIONS. In addition to the Definitions found in Section 201, the following definitions shall apply to this section:

A-FRAME SIGN –A portable Sign with two or more steeply angled sides not to exceed six square feet on each side.

ATTENTION–GETTING DEVICE – Any flag, streamer, spinner, light, balloon or similar device or ornamentation used for purposes of attracting attention for promotion.

AWNING AND/OR CANOPY - A roof-like protective cover over a door, entrance, window or outdoor service area that projects from the face of a Structure or Building and is constructed of durable materials, including but not limited to fabrics and or plastics.

AWNING AND/OR CANOPY SIGN – Any Sign that is a part of or which is attached to an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area. A marquee is not a Canopy.

BANNER – Any Sign of lightweight fabric or similar material that is permanently mounted to a pole or Building by a permanent frame at one or more edges.

BANNER/TEMPORARY – Any Sign of lightweight fabric or similar material that is temporarily mounted to a pole or Building. Banner shall not exceed two square feet for each lineal foot of width of the Building or space.

BILLBOARD – A surface whereon advertising matter is set in view conspicuously and which advertising does not apply to premises or and uses of premises wherein it is displayed or posted.

BUILDING DIRECTORY SIGN – A Sign listing the Tenants or occupants of a Building or group of Buildings and that may indicate their respective professions or business activities.

BUILDING FRONTAGE – The width of a Building facing a street or public parking lot: in the case of a corner lot, it may be either frontage at the option of the applicant. Where a mall exists, “Building Frontage” shall mean that portion of the Building perimeter facing a Road or designated parking area: in the case of two such perimeters, it may be either frontage at the option of the applicant.

BULLETIN BOARD – See “Changeable-Copy Sign”.

CHANGEABLE-COPY SIGN/TEMPORARY OR PORTABLE – A Sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face or the surface of the Sign. Such Sign is mounted on wheels or easily transported.

COPY – Characters, letters or illustrations that can be changed or rearranged on a Changeable-Copy Sign.

DIRECTIONAL SIGN – Any Sign limited to directional messages, principally for pedestrian or vehicular traffic, such as “one-way”, “entrance” and “exit”.

EXTERIOR ENTRANCE – A direct entrance from a public way to a habitable or tenantable space.

FASCIA SIGNS – See “Wall Sign”.

FLAG - Any fabric, Banner or bunting containing distinctive colors, patterns or symbols used as a symbol of a government, political subdivision or other entity.

FREESTANDING SIGN – A Sign supported by one or more upright poles, columns or braces placed in or on the ground and not attached to any Building or Structure. Such Sign may have permanent or Changeable Copy.

GRAPHIC SIGN - A Sign which is an integral part of a building facade. The Sign is painted directly on, carved in or otherwise permanently embedded in the facade.

GROUND SIGN – See “Freestanding Sign.”

HANGING SIGN – See “Projecting Sign.”

HOLIDAY DECORATION SIGN – Temporary Signs, in the nature of decorations, clearly incidental to and customarily and commonly associated with any national, local or religious holiday.

ILLUMINATED (DIRECTLY) SIGN – A Sign designed to give forth artificial light directly from a source of light within such a Sign.

ILLUMINATED (INDIRECTLY) SIGN – A Sign illuminated with a light so shielded that no direct rays there from are visible elsewhere on the Lot where said illumination occurs.

LIGHT EMITTING DIODE (LED) SIGNS – These are also referred to as electronic billboards or message boards.

LOGO - Any picture, shape or drawing, with or without letters or words used to identify a product, service, business or organization.

MARQUEE - Any hood, Awning or permanent construction that projects from a wall of a Building or Structure, usually above an entrance.

MOBILE SIGNS – See “Portable Sign”.

NONCONFORMING SIGN - Any Sign that does not meet the requirements of this Article.

POLE SIGN - A Sign that is mounted on a Freestanding pole or other supports.

PORTABLE SIGN - A Sign, whether on its own trailer, wheels or otherwise designed to be mobile and not structurally attached to the ground, a Building, a Structure or another Sign.

PROJECTING SIGN - Any Sign other than a Wall Sign that is attached to and projects from the wall or face of a Building or Structure.

REFLECTIVE SURFACE – Any material or device which has the effect of intensifying reflected light, such as Scotchlite (trademark), Dayglo (trademark) or glass beads.

ROOF SIGN - A Sign mounted on the roof of a Building.

SANDWICH SIGN – See “A-Frame Sign”.

SEE-THROUGH LETTERED SIGNS – Letters on a Sign with a transparent background, such as lettering on a window.

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

SIGN, AREA - The area defined by the frame or edge of a Sign. Where there is no geometric frame or edge of the Sign, the area shall be defined by projected, enclosed, four-sided (straight sides) geometric shape which most closely outlines said Sign.

SIGN PERMIT - No Sign shall be hereafter erected, placed or maintained at any place in the Town of Leicester except as provided by this Article and only after a permit therefore has been obtained in compliance with the provisions of this Article, unless stated otherwise.

TEMPORARY SIGN – Sign applicable to business and special events. No such Sign shall be displayed for more than 30 days each calendar year.

TEMPORARY YARD SIGN – Sign placed in the yard of a residence or on a vacant parcel, commercial or farm parcel for non-business purposes, not including a yard, garage or household sale.

TENANT – An occupant who temporarily holds or occupies land, a Building or other property owned by another.

TENANT IDENTIFICATION SIGN - A Sign designed or intended to identify a tenant, occupant or establishment.

VEHICLE SIGN – Signs displayed on licensed and registered motor vehicles which are used in conjunction with a business.

WALL SIGN – A Sign attached to and erected parallel to the face of a Building and supported throughout its length by such Building. Such sign may have permanent or Changeable Copy.

WINDOW AREA - The total area of any single window pane or a series of window panes which are separated by mullions.

WINDOW SIGN - A Sign visible from a sidewalk, Road or other public place, painted or affixed on glass or other window material or located inside within four feet of the window, but not including graphics in connection with customary window display of products.

WINDOW SIGN, TEMPORARY - A Window Sign not permanently affixed that does not identify the tenant, occupant or establishment and is limited to a maximum use of 120 days.

ZONING DISTRICT - The classification of lands as established in this Code.

C. NONCONFORMING SIGNS; APPLICABILITY.

After the adoption of this Code, the use of all Non-Conforming Signs shall cease (or said Signs shall be brought into compliance with the regulations contained in this section) at the time when there is any one or more of the following:

1. A change in ownership.
2. A change in Use.

3. Failure to maintain Signs.
4. Creation of a hazard or disturbance to the health, safety and welfare of the general public as determined by the Code Enforcement Officer.

B. For the purpose of these regulations, the term “Sign” does not include:

1. Written notifications erected and maintained pursuant to and in discharge of any government function, including state or federal historic markers, or required by any law, ordinance or governmental regulation.
2. Repainting, cleaning and other normal maintenance and repair of a Sign or Sign structure, unless a structural change is made or if the repair is in violation of this Section.
3. Memorial tablets or Signs and locally designated historic markers not exceeding two square feet in area.
4. Flags, emblems or insignias of the United States, the State of New York, town, village or counties, other countries and states, The United Nations or similar organizations which this nation is a member.
5. Signs for the direction or convenience of the public, including Signs which identify restrooms or locations of public telephones or traffic control devices: however, the total area shall not exceed two (2) square feet.

C. GENERAL SIGN REGULATIONS - Signs are important components of the streetscape. However, Signs do more than communicate information. By quality of their design, they can either contribute to or diminish the character or appearance of Buildings or Structures as a whole. They can serve as attractive accents or they can clutter and detract from the character of an area. The purpose of these general requirements is to promote the visual cohesiveness of the area by encouraging Signs to be harmonious with the architecture of each Building or Structure and the character of the surrounding area.

1. No Sign shall be permitted in any Zoning District except in compliance with the provisions of these regulations.
2. No Sign shall be erected, altered, moved or used without first obtaining a Sign Permit where required, and Signs shall be used only for a Permitted Use, Specially Permitted Use or for a Non-Conforming Use which may lawfully continue in accordance with the terms of these regulations.
3. The Planning Board as part of Site Plan review or subdivision review, or the Code Enforcement Officer in reviewing Sign Permits not subject to such review, shall consider

the compatibility of the Sign's location, color(s), lettering, size and overall design with on-site and adjacent architecture and community character.

4. Illuminated Signs must be Dark Sky Compliant.
5. If any Sign consists of Banners, posters, pennants, ribbons, streamers, spinners, balloons, searchlights and other similar moving, fluttering or revolving, flashing, smoke-generating or visual signal generation or animated devices that creates an adverse impact to safe traffic movements or strings of lights used for the purpose of advertising, illumination or attracting attention, the Code Enforcement Officer will have the authority to have the offending sign or part thereof removed.
6. Pictorial designs, logos and trademarks shall be permitted, provided that they are incorporated in and made a part of a permitted Sign face, and the area thereof is included in calculating the total permitted Sign face area allowed under these regulations.
7. No application for approval of Signs or for a Sign Permit shall be processed or permitted unless written permission is granted from the property Owner.
8. No Sign shall project across or over a Lot Line or lease line, nor be in a public Right-Of-Way.
9. All Signs shall comply with applicable provisions of the State of New York Uniform Fire Prevention and Building Code.
10. Roof Signs shall not exceed eighteen (18) square feet in area and no more than half of the width of the Building or Structure. For Buildings or Structures with multilevel roofs, Signs are permitted only on the lowest roof and shall not exceed ten (10) feet in height from the mounting point on the roof.
11. Maintenance of all Signs:
 - a. All Signs and components thereof, including supports, braces and anchors, shall be kept in a good state of repair.
 - b. If a message portion of a Sign is removed or a business or other activity is no longer operating, it shall be the property Owner's responsibility to assure that the abandoned Sign is promptly removed or properly covered to the satisfaction of the Code Enforcement Officer.
12. Every Principal Building or Structure shall have Road identification numbers.
13. Billboards are prohibited in all Zoning Districts.

14. Signs containing luminous material, sequin-studded letters or lettering with fluorescent paint are prohibited.
15. No Sign shall be erected or allowed to exist so as to constitute a traffic hazard. No Sign or other advertising structure as regulated by any of the provisions of this Section shall be erected at the intersection of any Roads in such a manner as to obstruct free and clear vision; or at any location where, by reason or position, shape, or color it may interfere with, obstruct the view of or be confused with any authorized traffic Sign, signal or device or makes use of words, phrases, symbols or characters in such a manner as to interfere with, mislead or confuse traffic.

D. SPECIFIC SIGN REGULATIONS.

1. EXEMPT SIGNS – Subject to specific limitations as may be stated hereafter, the following Signs are allowed in any appropriate Zoning District and do not require a Sign Permit:
 - a. Historical markers, tablets and statues, memorial signs and plaques; names of Buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel, or similar material; and emblems installed by governmental agencies, religious or not for profit organizations; not exceeding six (6) square feet.
 - b. Flags and insignia of any government.
 - c. On-premises directional Signs for the convenience of the general public parking areas, fire zones, entrances and exits and similar Signs internally illuminated or non-illuminated, not exceeding four (4) square feet per face and six (6) feet in height. Business names and advertising messages shall not be allowed as part of such Signs.
 - d. Signs announcing no trespassing, private driveway and Signs controlling the fishing or hunting on the premises, provided that the area of any one side of any such Sign shall not exceed two (2) square feet per face.
 - e. One on-premises Sign, either Freestanding or attached, in connection with any residential Building in any Zoning District, for permitted Professional Office, not exceeding four (4) square feet and set back at least ten (10) feet from the Lot Line. Such Sign shall state name and vocation only. Illumination shall not produce a direct glare beyond the limits of the Lot Line.
 - f. Number and name plates identifying residents, attached to a Building and not exceeding two (2) square feet in area on each side.
 - g. Lawn Signs identifying residents, not exceeding two (2) square feet in area.

- h. Private owner merchandise sale Signs for garage sales and auctions, not exceeding four (4) square feet for a period not exceeding four (4) days within a given month.
- i. Temporary non- illuminated “For Sale”, “For Rent”, real estate Signs and Signs of a similar nature, concerning the premises upon which the Sign is located. In a Residential District (R), one Sign not exceeding four (4) square feet per side. In a Commercial or Industrial District, one Sign not exceeding fifty (50) feet square feet and set back at least fifteen (15) feet from all Lot Lines. All such Signs shall be removed within three (3) days after the sale, lease or rental of the premises.
- j. Temporary Yard Signs shall not exceed four (4) square feet per side and shall be displayed for more than 30 days each calendar year.
- k. Temporary, non- illuminated window Signs and posters providing that the following standards are complied with:
- See-Through Lettered Window Signs must not cover more than 80% of the total window area.
 - An opaque Sign may not cover more than 20% of the total window area.
 - In the case of a door, a Window Sign may not cover more than 20% of the total window area.
- l. Credit card advertisements or trade association emblems which are displayed together in an area which does not exceed one (1) square foot may be displayed. Such Signs shall be displayed flat on window or door surfaces. The purpose of these Signs shall be solely to offer a service and not to advertise the business.
- m. Holiday decorations, including lighting.
- n. Temporary Signs/Banners advertising and/or providing directions to meetings, shows, temporary exhibits, or events and sponsored by a not-for-profit organization. These Signs may be erected subject to the following requirements:
- Permission is granted by a property Owner, including state, county, town, village, utility companies and businesses in writing.
 - Banners shall not exceed thirty (30) inches in height and forty (40) feet in length.
 - Signs shall not be posted earlier than four (4) weeks before the occurrence of the exhibit, show or event and shall be removed within one (1) week after the exhibit, show or event.

- o. One (1) Sign, not exceeding six (6) square feet in the Residential Districts (R) or four (4) square feet in the Business District, listing the architect, engineer, contractor and/or Owner, on the premises where construction, renovation or repair is in progress.
- p. Signs required by Federal, State, County or Village regulations (i.e. NYS registered motor vehicle shop and NYS inspection stations.).
- q. One Sign which may be a Copy Change Sign is permitted on the premises of a religious or not-for-profit organization. Such Sign shall not exceed twelve (12) square feet in area and shall not be erected or displayed closer than ten (10) feet to any Lot Line. There shall not be more than one Bulletin Board per Lot, except that on a corner Lot two (2) Signs, one facing each Road shall be permitted, however only one electronic (LED) Sign is permitted.

E. SIGNS REQUIRING PERMIT. The following Signs require a Sign Permit:

1. Home Occupation Sign.

- a. One (1) Home Occupation Sign shall be permitted for an approved Home Occupation. Such Sign shall be no larger than ten (10) square feet in Sign Area, shall not be closer than ten (10) feet from any Lot Line; and, if a Ground Sign, shall not exceed four (4) feet in height above the natural grade on which the Sign is located. The Sign may contain only the name, products sold and/or name of the business and/or occupation of the resident and no more than one (1) Sign shall be allowed for each such business or commercial activity conducted on the Lot.

2. Development Signs.

- a. Development Signs shall be permitted at the main entrances of a development or subdivision of real property provided that such subdivision shall contain at least five subdivision lots. A development Sign shall be limited in height to not more than six (6) feet above the natural grade on which the Sign is located and shall be limited to sixteen (16) square feet in area. All development Signs shall be Freestanding and composed of durable materials and shall be complimentary in design to the development or the surrounding area. Development Signs shall be subject to the criteria of this law and additional standards required by the Planning Board through the subdivision process.
- b. If proposed for location in the public Road Right-Of-Way, permanent provisions for Sign maintenance are required. Generally such Signs are only allowed if part of a subdivision with a homeowners association. Alternative long term maintenance agreements must be acceptable to the Planning Board.

- c. If proposed for location on private property outside the public Road Right-Of Way, the Owner of the property on which the Sign is located shall be responsible for maintenance of the Sign. A note to this effect shall be shown on the subdivision plan.
 - d. Temporary development Signs may be erected in suitable locations within the public Road Right-Of-Way or on an adjacent Lot. Such Signs shall be removed by the Owner of the subdivision or applicant when the last Lot is sold or upon failure to maintain the Sign.
 - e. Message Signs. A message Sign shall not exceed six (6) square feet in area, shall not be any closer than ten (10) feet from any Lot Line and shall not project more than four (4) feet in height above the natural grade on which the Sign is located.
 - f. Awnings and/or Canopy Signs. Awnings and/or canopy Signs are movable or fixed ornamental roof-like structures extended from the face of a Building or Structure and constructed of durable materials, including fabrics, which may contain their own illumination and may display lettering or other business insignia. No part of any Awning or Canopy Sign shall:
 - Project more than eight (8) feet or two thirds the width of the sidewalk from the Building or Structure to which it is attached.
 - Extend above the height of the second floor window sill.
 - Extend into any side or rear setback areas.
 - Be any lower than eight (8) feet above the ground elevation of the wall face from the Building or Structure to which it is attached.
 - g. Prior to the issuance of a Sign Permit, the applicant shall furnish to the Code Enforcement Officer all plans and specifications for the proposed installation. The applicant may be referred to the Planning Board prior to a Sign Permit being issued to consider the appropriate relationship between the size, design and shape of the Awning and/or Canopy Sign and of the Building or Structure to which it will be attached, as well as placement of the Awnings and/or Canopies on the Building or Structure.
3. LED signs. The signal generation for the Sign must not create an adverse impact to traffic movement.
4. Portable or Temporary Changeable-Copy Signs. Portable or Temporary Changeable-Copy Signs require the issuance of a Special Use Permit carrying special restrictions from the Planning Board.

F. PERMITTED SIGNS IN COMMERCIAL AND INDUSTRIAL DISTRICTS.

1. BUSINESS IDENTIFICATION SIGNS.

a. Wall signs.

- One (1) wall Sign not to exceed two (2) square feet for each linear foot of width of the front of the wall of the Building or Structure, or portion of the Building or Structure occupied by the business, or a maximum of 100 square feet, whichever is less.
- For multiple-story Buildings, Wall Signs shall only be permitted on the ground floor.
- The Sign shall identify the Owner or enterprise conducting the business, the business engaged in upon the premises or products or services sold, or any combination of these.
- Where a Building has frontage on more than one Road or public highway, one Wall Sign is permitted for each Road frontage.
- Building directory Sign for a multiple-use structure. One building directory Sign indicating the name of the occupants of the Building and the Building number in order to direct persons to their proper destination once they are on site shall be permitted. Signs are to be no larger than sixteen (16) square feet in area on each side, including the nameplates of all the Tenants or Uses and shall project not more than six (6) feet in height above the natural grade on which the Sign is located. The proposed Sign's construction shall complement the architectural style and materials of the Building it will serve. The proposed Sign shall be subject to Planning Board review through the Site Plan approval process. In determining the design, location and hours of illumination, the Board shall be guided by other pertinent Sections of these Regulations.

b. One Projecting Sign, provided that:

- Such Sign shall not exceed ten (10) square feet in area and shall not project more than four (4) feet from the wall or surface to which they are mounted.
- Such Sign shall be at least eight (8) feet to the bottom of the Sign above the ground level immediately below and shall not in any way interfere with normal pedestrian or vehicular traffic.
- There shall be no more than one Projecting Sign for each business or public entrance.

- The supporting structure shall not be included in calculation of the Sign area.
- c. One (1) on-premises Freestanding business Sign, provided that:
- It indicates the name of the business. Such Sign shall be no larger than twenty (20) square feet in area and shall not project more than ten (10) feet in height above the natural grade on which the Sign is located. The proposed Sign's construction shall complement the architectural style and materials of the Building it will serve. The proposed Sign shall be subject to Planning Board review through the Site Plan process. In determining the design, location and hours of illumination, The Board shall be guided by other pertinent Sections of these Regulations.
 - Only one such Sign shall be permitted on each property. In the case of a Lot occupied or intended to be occupied by multiple business enterprises (i.e., a neighborhood or community shopping center or plaza), one Freestanding Sign indicating the name of the development and the individual businesses shall be permitted.
 - Such a Sign may be double-faced.
 - All Freestanding Signs shall be located at least ten (10) feet from any Right-Of Way.
 - The location of the Sign is such so as not to interfere with visibility for vehicular/pedestrian traffic entering or leaving the Lot or traveling on any Road.
 - Signs for direction, provided that such Sign(s) do not exceed two (2) square feet in area. Such Signs may indicate the entrance and exit to the property and location of parking. Such Signs shall not project more than four (4) feet in height above the natural grade on which the Sign is located and shall be no closer than five (5) feet to any Lot Line.
- d. Temporary advertising and promotional Banners. Only one (1) such Sign shall be displayed by any business at one time.

G. APPLICATION FOR PERMIT; FEES; ISSUANCE.

1. **APPLICATION FOR A SIGN PERMIT.** Application for the Sign Permit shall be made in writing to the Code Enforcement Officer upon forms prescribed by and provided by the Code Enforcement Officer and shall contain the following information:

- a. The name, address and telephone number of the applicant.

- b. Location of Buildings, Structures or land to which, or upon which, the Sign is to be erected.
 - c. A detailed drawing or blueprint showing a description of the construction details of the Sign and showing the colors, lettering and/or pictorial matter composing the Sign; position of lighting and other extraneous devices; and a location plan showing the position of the Sign on any Building or land and its position in relation to nearby Buildings, Structures or existing Signs and to any private or public Road.
 - d. Written consent of the Owner of the Building, Structure or land to which or upon which the Sign is to be erected in the event the applicant is not the Owner thereof.
 - e. A copy of any required or necessary electrical permit issued for said Sign or a copy of the application thereof.
- H. FEES. The fees to be paid for the erection of a Sign shall be established by the Leicester Town Board from time to time and shall be available at the Town Clerk Office.
- I. ISSUANCE OF A PERMIT. It shall be the duty of the Code Enforcement Officer, upon the filing of any application for a Sign Permit, to examine such plans, specifications and other plans submitted with the application and, if necessary, the Building, Structure or Lot upon which the proposed Sign is to be located. If it shall appear that the proposed Sign is in compliance with all the requirements of this Section and all other regulations of the Town of Leicester, the Code Enforcement Officer shall then, within ten (10) days, issue a Sign Permit for the erection of the proposed Sign. If the Sign authorized under such Sign Permit has not been completed within six (6) months from the date of issuance of such Sign Permit, the Sign Permit shall become null and void. If it shall appear that the proposed Sign is not in compliance with this Section, the Code Enforcement Officer shall deny the Sign Permit within ten (10) days of its receipt.